

3/23/2015

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CR 1983 12 0614

Case Type: CRIMINAL
 Case Status: Closed
 File Date: 12/22/1983
 DCM Track:

Action: AGGRAVATED MURDER 2901.01 A
 Status Date: 12/22/1983
 Case Judge: CREHAN, Honorable MATTHEW
 Next Event:

All Information | **Party** | **Charge** | **Event** | **Docket** | **Additional Fields** | **Disposition** | **Financial**

Docket Information

| Date | Docket Text | Amount | Image Avail. |
|------------|---|---------|-----------------------|
| 12/22/1983 | HAMILTON MUNICIPAL COURT LOWER COURT FEES transcript bindover | | Image |
| 12/22/1983 | JOURNAL ENTRY - NO BOND DOLLARS FILED | \$2.00 | Image |
| 12/22/1983 | COST BILL | \$43.30 | Image |
| 12/22/1983 | CLERKS COMPUTER FEE - \$10 FUND 111 | \$10.00 | |
| 12/22/1983 | TRANSCRIPT(S) FILED (duplicate sent to County Prosecutor)+ Special Project Fee \$75 | \$60.00 | |
| 01/06/1984 | NOTICE TO SUPREME COURT OF OHIO OF FILING OF INDICTMENT CHARGING AGGRAVATED MURDER WITH SPECIFICATION(S) OF AGGRAVATING CIRCUMSTANCES (R.C. 2929.021(A) | \$0.00 | Image |
| 01/06/1984 | SUMMONS ON INDICTMENT OR INFORMATION | \$60.00 | Image |
| 01/06/1984 | copy of Indictment scanned & forwarded to case file folder | | Image |
| 01/06/1984 | PROSECUTING ATTORNEY'S REQUEST FOR ISSUANCE OF SUMMONS UPON INDICTMENT FILED PROS ATTY: HOLCOMB, JOHN F | \$0.00 | Image |
| 01/09/1984 | RETURN-PERSONAL SERVICE OF SUMMONS ON INDICTMENT | \$2.65 | Image |
| 01/11/1984 | RETURN RECEIPT OF CERTIFIED MAIL (SEE IMAGE) | \$1.65 | Image |
| 01/13/1984 | INDICTMENT SCANNED; DEFENDANT ARRAIGNED PLEADS NOT GUILTY | \$4.00 | Image |
| 01/17/1984 | MOTION TO SEVER FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 01/17/1984 | MOTION FOR BILL OF PARTICULARS FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 01/17/1984 | MOTION FOR CHANGE OF VENUE FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 01/17/1984 | MOTION TO VIEW THE SCENE FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 01/17/1984 | MOTION TO DISMISS AND TO INSPECT GRAND JURY TRANSCRIPT FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 01/20/1984 | MEMORANDUM IN OPPOSITION TO MOTION FOR CHANGE OF VENUE FILED ASST PROS ATTYS: EICHEL, DANIEL G (08259) AND SAGE, MICHAEL J | \$0.00 | Image |
| 01/20/1984 | MEMORANDUM IN OPPOSITION TO MOTION TO DISMISS AND TO INSPECT GRAND JURY TRANSCRIPT FILED ASST PROS ATTYS: EICHEL, DANIEL G (08259) AND SAGE, MICHAEL J | \$0.00 | Image |
| 01/20/1984 | MEMORANDUM IN OPPOSITION TO MOTION TO SEVER COUNTS FILED PROS ATTYS: EICHEL, DANIEL G (08259) AND SAGE, MICHAEL J | \$0.00 | Image |
| 01/26/1984 | ENTRY SCHEDULING PRETRIAL HEARING AND CONTINUING TRIAL DATE | \$2.00 | Image |
| 01/26/1984 | MEMORANDUM IN SUPPORT OF MOTION TO SEVER FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 01/26/1984 | MEMORANDUM IN SUPPORT OF MOTION FOR CHANGE OF VENUE FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 1/28

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|------------|--|--------|-----------------------|
| 02/01/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES) | \$6.00 | Image |
| 02/01/1984 | MOTION FOR DISCOVERY FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 02/01/1984 | MOTION TO BIFURCATE TRIAL/MOTION IN LIMINE AND MEMORANDUM FILED Attorney: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 02/01/1984 | MOTION TO PROHIBIT DEATH QUALIFICATION OF THE JURY AND MEMORANDUM FILED ATTY: SHANKS, MICHAEL D (18906) | \$0.00 | Image |
| 02/02/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 02/03/1984 | MEMORANDUM IN OPPOSITION TO MOTION IN LIMINE RE: DEATH QUALIFICATION OF JURORS FILED ASST PROS ATTY: SAGE, MICHAEL J | \$0.00 | Image |
| 02/08/1984 | STATE'S ANSWER TO DEFT'S REQUEST FOR DISCOVERY FILED ASST PROS ATTY: SAGE, MICHAEL J | \$0.00 | Image |
| 02/08/1984 | MOTION FILED PROS ATTY: HOLCOMB, JOHN F | \$0.00 | Image |
| 02/08/1984 | JOURNAL ENTRY - ORDER FILED | \$2.00 | Image |
| 02/09/1984 | BILL OF PARTICULARS FILED PROS ATTY: HOLCOMB, JOHN F | \$0.00 | Image |
| 02/13/1984 | RETURN RECEIPTS OF CERTIFIED MAIL OF KARLA STANLEY AND DICK PERRY | \$0.00 | Image |
| 02/14/1984 | JOURNAL ENTRY - INDICTMENT FOR AGGRAVATED - MURDER (WITH SPECS) DEFT INDIGENT COURT ASSIGNS MICHAEL D SHANKS AND JOHN GARRETTSON TO DEFEND | \$2.00 | Image |
| 02/14/1984 | MOTION TO APPOINT COUNSEL FILED Attorney: SHANKS, MICHAEL D | \$0.00 | Image |
| 02/14/1984 | AFFIDAVIT OF VON CLARK DAVIS | \$0.00 | Image |
| 02/15/1984 | JOURNAL ENTRY - CERTIFICATE FILED | \$2.00 | Image |
| 02/15/1984 | RETURN-PERSONAL SERVICE OF SUBPOENAS UPON : (SEE IMAGES) | \$9.60 | Image |
| 02/24/1984 | ENTRY FILED | \$2.00 | Image |
| 02/24/1984 | ENTRY ORDERING SPECIAL VENIRE PURSUANT TO O R C 2945.18 | \$2.00 | Image |
| 03/05/1984 | RETURN OF NOTICE TO SUPREME COURT OF OHIO OF FILING OF INDICTMENT CHARGING AGGRAVATED MURDER WITH SPECIFICATION(S) OF AGGRAVATING CIRCUMSTANCES (R.C. 2929.021(A), SUPREME COURT CASE #CC84-4, FILED 1-10-84 | \$0.00 | Image |
| 03/20/1984 | CERTIFIED COPIES OF RETURNED - PERSONAL SERVICE OF VENIRE FOR SPECIAL PETIT JURORS: UPON: (SEE IMAGES) | \$0.00 | Image |
| 03/22/1984 | PERSONAL SERVICE OF SPECIAL VENIRES: UPON: JURORS (SEE IMAGE) | \$0.00 | Image |
| 04/20/1984 | ENTRY ORDERING ADDITIONAL SPECIAL VENIRE PURSUANT TO O R C 2945.19 FILED | \$2.00 | Image |
| 04/20/1984 | SUPPLEMENTAL DISCOVERY FILED Attorney: SAGE, MICHAEL J | \$0.00 | Image |
| 04/23/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 04/25/1984 | DEFT'S RESPONSE TO PLTF'S MOTION FOR DISCOVERY FILED Attorney: SHANKS, MICHAEL D | \$0.00 | Image |
| 04/26/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES) | \$8.00 | Image |
| 04/26/1984 | AMENDED RESPONSE TO PLTF'S FOR DISCOVERY FILED Attorney: SHANKS, MICHAEL D | \$0.00 | Image |
| 04/27/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 04/27/1984 | ELECTION BY DEFT PURSUANT TO SECTION 2929.022 OF THE OHIO REVISED CODE FILED Attorney: SHANKS, MICHAEL D AND Attorney: GARRETTSON, JOHN A | \$0.00 | Image |
| 04/27/1984 | MOTION TO HAVE REASONS FOR DEFENSE OBJECTIONS AND REASONS FOR | \$0.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQs... 2/28

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| | OVERRULING DEFENSE OBJECTIONS PLACED ON RECORD WITH MEMORANDUM IN SUPPORT FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A | | |
| 04/27/1984 | MOTION FOR NOTICE OF PROSPECTIVE THREE-JUDGE PANEL FILED Attorney: SHANKS, MICHAEL D AND Attorney: GARRETSON, JOHN A | \$0.00 | Image |
| 04/27/1984 | MOTION TO INCREASE THE BURDEN OF PROOF TO BEYOND ALL DOUBT FILED Attorney: SHANKS, MICHAEL D AND Attorney: GARRETSON, JOHN A | \$0.00 | Image |
| 04/27/1984 | MOTION FOR PRETRIAL HEARINGS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION FOR RULING ON NUMBER OF PEREMPTORY CHALLENGES FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION TO RECORD ALL PROCEEDINGS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION TO COMPEL PROSECUTOR TO DISCLOSE DEATH PENALTY DATA FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION FOR PRETRIAL DISCLOSURE OF THE PROSECUTING WITNESSES' WRITTEN OR RECORDED STATEMENTS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION TO COMPEL DISCLOSURE OF PROSECUTING ATTORNEY'S JURY SELECTION DATA FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION TO REQUIRE PROSECUTOR TO STATE REASON FOR EXERCISING PEREMPTORY CHALLENGES FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION FOR LEAVE TO FILE ADDITIONAL MOTIONS AND FOR LEAVE TO SUPPLEMENT THE MEMO IN SUPPORT OF THOSE MOTIONS ALREADY FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION FOR ALL MOTIONS TO BE HEARD ON THE RECORD FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION FOR SEQUESTRATION OF JURORS FOR DURATION OF TRIAL FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | FURTHER MOTION TO PROHIBIT DEATH QUALIFICATION OF JURY: IN THE ALTERNATIVE TO SEAT SEPARATE JURIES DURING THE GUILT AND PENALTY PHASES OF TRIAL AND SUPPLEMENTAL MEMORANDUM THEREON FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | FURTHER MEMORANDUM IN SUPPORT OF DISCLOSURE OF GRAND JURY TESTIMONY FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION FOR INDIVIDUAL SEQUESTERED VOIR DIRE FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION TO INSULATE THE VENIRE AND JURY FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | MOTION TO DISMISS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |
| 04/27/1984 | SUPPLEMENTAL DISCOVERY FILED ASST PROS ATTY, MICHAEL J | \$0.00 | Image |
| 04/30/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 04/30/1984 | MOTION IN LIMINE WITH MEMORANDUM FILED Attorney: GARRETSON, JOHN A | \$0.00 | Image |
| 04/30/1984 | RETURNED MOTION FOR EXPERT SERVICES FILED BY Attorney: SHANKS, MICHAEL D FILED IN SUPREME COURT CASE #99-0252 ON 3-5-99 | \$0.00 | Image |
| 04/30/1984 | JOURNAL ENTRY - ORDER FILED | \$2.00 | Image |
| 04/30/1984 | MOTION FOR ORDER RELEASING RECORDS FILED Attorney: SHANKS, MICHAEL D (18906) AND Attorney: GARRETSON, JOHN A (00831) | \$0.00 | Image |

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| 04/30/1984 | INVOICE (attachment) | \$0.00 | Image |
| 05/01/1984 | STATE'S MEMORANDUM IN RESPONSE TO MOTIONS OF DEFT FILED ON 4-27-84 FILED ASST PROS ATTY: EICHEL, DANIEL G (08259) AND ASST PROS ATTY: SAGE, MICHAEL J | \$0.00 | Image |
| 05/03/1984 | MOTION FILED PROS ATTY: HOLCOMB, JOHN F | \$0.00 | Image |
| 05/03/1984 | MOTION FILED PROS ATTY: HOLCOMB, JOHN F | \$0.00 | Image |
| 05/04/1984 | JOURNAL ENTRY - PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 05/04/1984 | JOURNAL ENTRY FILED | \$8.00 | Image |
| 05/04/1984 | JOURNAL ENTRY - WAIVER AND ELECTION FILED | \$2.00 | Image |
| 05/08/1984 | JOURNAL ENTRY - JURY WAIVER AND ELECTION OF THREE-JUDGE PANEL FILED | \$2.00 | Image |
| 05/08/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 05/08/1984 | RETURN-PERSONAL SERVICE OF SUBPOENA UPON : (SEE IMAGE) | \$1.65 | Image |
| 05/09/1984 | JOURNAL ENTRY - MOTION AND ENTRY FILED | \$4.00 | Image |
| 05/09/1984 | JOURNAL ENTRY - DESIGNATING THREE JUDGE PANEL FILED | \$2.00 | Image |
| 05/09/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 05/09/1984 | RETURN-PERSONAL SERVICE OF SUBPOENAS UPON : (SEE IMAGES) | \$66.30 | Image |
| 05/10/1984 | JOURNAL ENTRY - MOTION AND ENTRY FILED | \$4.00 | Image |
| 05/10/1984 | INVOICE (attachment) | \$0.00 | Image |
| 05/10/1984 | JOURNAL ENTRY - CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT FOR A TOTAL OF \$36.00 FILED | \$2.00 | Image |
| 05/10/1984 | RETURN-PROCESS SERVICE OF SUBPOENA UPON : (SEE IMAGE) | \$0.00 | Image |
| 05/10/1984 | RETURN-PROCESS SERVICE OF SUBPOENAS UPON : (SEE IMAGES) | \$0.00 | Image |
| 05/11/1984 | JOURNAL ENTRY - CERTIFICATE FILED | \$2.00 | Image |
| 05/11/1984 | RETURN-PERSONAL SERVICE OF SUBPOENAS UPON : (SEE IMAGES) | \$5.65 | Image |
| 05/14/1984 | RETURN RECEIPT OF CERTIFIED MAIL OF MR STEVEN DIX, CHIEF OF MANAGEMENT DEPT OF CORRECTIONS | \$0.00 | Image |
| 05/14/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 05/15/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 05/16/1984 | ENTRY OF FINDINGS OF GUILTY | \$2.00 | Image |
| 05/22/1984 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 05/22/1984 | PERSONAL SERVICE OF CERTIFIED COPY OF ENTRY: UPON BUTLER COUNTY FORENSIC CENTER: (SEE IMAGE) | \$0.00 | Image |
| 05/25/1984 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGE) | \$2.00 | Image |
| 06/04/1984 | JUDGMENT OF CONVICTION ENTRY AND WRIT FOR THE EXECUTION OF THE DEATH PENALTY FILED | \$4.00 | Image |
| 06/05/1984 | COST BILL | \$1,021.00 | Image |
| 06/11/1984 | NOTICE TO SUPREME COURT OF OHIO OF PLEA OF GUILTY OR OF NO CONTEST TO AND NOTICE OF DISMISSAL OF INDICATING CHARGING AGGRAVATED MURDER WITH SPECIFICATION(S) OF AGGRAVATING CIRCUMSTANCES/R C 2929.021(B) FILED | \$0.00 | Image |

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| EDWARD S ROBB JR CLERK OF COURTS, JEROME COOK, DEPUTY CLERK | | | |
|---|--|---------|-----------------------|
| 06/11/1984 | JOURNAL ENTRY - OPINION FILED | \$6.00 | Image |
| 06/12/1984 | APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES & AFFIDAVIT OF INDIGENCY FILED,for atty.: JOHN A GARETSON IN AMOUNT OF \$2,629.50 | \$8.00 | Image |
| 06/12/1984 | JOURNAL ENTRY - INDICTMENT FOR DEFT INDIGENT COURT REQUEST ASSIGNS JACK GARRETSON FILED | \$2.00 | Image |
| 06/13/1984 | RETURN RECEIPT OF CERTIFIED MAIL OF SUPREME COURT OF OHIO | \$0.00 | Image |
| 06/18/1984 | RECEIPT #165627 NOTICE OF APPEAL \$40.00 | \$0.00 | Image |
| 06/18/1984 | NOTICE OF APPEAL (COPY) FILED IN COURT OF APPEALS CA84 06 071, 6-18-84 Attorney: EVANS, TIMOTHY R (18590) | \$0.00 | Image |
| 06/22/1984 | SHERIFF'S RETURN-PERSONAL SERVICE OF EXECUTION FOR COSTS \$1,021.00 IN FELONY | \$3.65 | Image |
| 06/22/1984 | SHERIFF'S RETURN-PERSONAL SERVICE OF WARRANT TO CONVEY TO SOUTHERN OHIO CORRECTIONAL FACILITY | \$36.35 | Image |
| 06/27/1984 | COPY OF CRIMINAL DOCKET STATEMENT FILED COPY TO COURT OF APPEALS #CA84 06 071 | \$2.00 | Image |
| 08/01/1984 | MOTION FILED Attorney: EVANS, TIMOTHY R (18590) | \$0.00 | Image |
| 08/01/1984 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 08/16/1984 | MOTION FOR STAY OF EXECUTION FILED Attorney: EVANS, TIMOTHY R (18590) | \$0.00 | Image |
| 08/16/1984 | JOURNAL ENTRY GRANTING STAY OF EXECUTION FILED | \$2.00 | Image |
| 08/16/1984 | COPY OF ENTRY GRANTNG STAY OF EXECUTION FILED IN COURT OF APPEALS CASE #CA84 06 071 | \$2.00 | Image |
| 08/20/1984 | RETURN RECEIPTS OF CERTIFIED MAIL OF THOMAS L STARTZMAN AND WALLACE E STEIN - RECORD CLERK | \$0.00 | Image |
| 09/25/1984 | JOURNAL ENTRY - CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT/CERTIFICATE TRANSCRIPT FEE \$753.00 FILED | \$2.00 | Image |
| 09/25/1984 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 09/25/1984 | JOURNAL ENTRY - CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT, ATTYS FOR DEFT MIKE SHANKS AND JACK GARRETSON, TOTAL OF \$1,129.50 FILED | \$2.00 | Image |
| 09/25/1984 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 09/25/1984 | CERTIFIED COPY OF CLERK'S TRANSCRIPT FEE FOR AN INDIGENT DEFT, for atty.: MIKE SHANKS AND JACK GARRETSON, TOTAL OF \$1,129.50 | \$2.00 | Image |
| 08/21/1985 | ADDITIONAL EXECUTION FOR COSTS IN FELONY TO SHERIFF | \$0.00 | Image |
| 05/27/1986 | MEMO :NUNC PRO TUNC ENTRY TO THIS DATE FILED 5/7/90 | \$0.00 | |
| 05/27/1986 | JOURNAL ENTRY - OPINION FILED IN CA84-06-071 | \$52.00 | Image |
| 05/27/1986 | JOURNAL ENTRY MANDATE JUDGMENT ENTRY FILED IN CASE #CA84 06 071 | \$2.00 | Image |
| 05/27/1986 | JOURNAL ENTRY - JUDGMENT FILED IN CA84 -06-071 - COPY | \$2.00 | Image |
| 05/27/1986 | SEPARATE OPINION PURSUANT TO R C 2929.05 (A) - COPY | \$2.00 | Image |
| 09/29/1988 | SUPREME COURT OF OHIO COLUMBUS MANDATE FILED NO. 86-1171, 1988 TERM - COPIES ATTACHED | \$10.00 | Image |
| 09/29/1988 | SUPREME COURT OF OHIO COLUMBUS MANDATE FILED NO. 86-1171, 1988 TERM - ATTACHMENT COPY OF APPEAL FROM THE COURT OF APPEALS | \$4.00 | Image |
| 09/29/1988 | MOTION TO RETURN DEFT FOR SENTENCING FILED Attorney: GARRETSON, JOHN A (00831), Attorney: SHANKS, MICHAEL D (18906) AND Attorney: EVANS, TIMOTHY R (18590) | \$0.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQs... 5/28

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| 10/05/1988 | CERTIFIED COPY OF JOURNAL ENTRY FILED | \$2.00 | Image |
| 10/31/1988 | PERSONAL SERVICE OF WRIT: UPON: (SEE IMAGE) | \$0.00 | Image |
| 11/04/1988 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 11/09/1988 | PERSONAL SERVICE OF WRIT: UPON: (SEE IMAGE) AND RECEIPT FOR INMATE ATTACHED | \$0.00 | Image |
| 01/19/1989 | LETTER FROM SUPREME COURT WASHINGTON DC TO JOHN F HOLCOMB | \$0.00 | Image |
| 01/19/1989 | MOTION FILED Attorney: EICHEL, DANIEL G (08259) | \$0.00 | Image |
| 02/06/1989 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 02/10/1989 | APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES & AFFIDAVIT OF INDIGENCY FILED,for atty.: MICHAEL D SHANKS, IN AMOUNT OF \$1,386.00 | \$6.00 | Image |
| 05/09/1989 | MOTION TO EXTEND TIME TO FILE PRERIAL MOTIONS AND MOTION TO CONTINUE SENTENCING/MITIGATION HEARING FILED Attorney: GARRETSON, JOHN A (00831), Attorney: SHANKS, MICHAEL D (18906)/PER PHONE AND Attorney: EVANS, TIMOTHY R (18590)/PER PHONE | \$0.00 | Image |
| 06/05/1989 | NOTICE OF HEARING OF MITIGATION SET 8-4- AT 9:00 AM BEFORE JUDGE MOSER, WILLIAM R STITSINGER AND HENRY J BRUEWER | \$0.00 | Image |
| 06/28/1989 | ENTRY FILED | \$2.00 | Image |
| 06/29/1989 | WITHDRAW OF JURY WAIVER FILED Attorney: EVANS, TIMOTHY R (18590) | \$2.00 | Image |
| 06/29/1989 | MOTION FILED Attorney: EVANS, TIMOTHY R (18590), FILED 3-5-99 SUPREME COURT OF OHIO 99-0252 AND 3-5-91, 90-2524 | \$0.00 | Image |
| 06/29/1989 | MOTION TO WITHDRAW THE JURY WAIVER FILED Attorney: EVANS, TIMOTHY R (18590) | \$0.00 | Image |
| 07/18/1989 | MOTION FOR FURTHER PSYCHOLOGICAL EVALUATIONS, APPOINTMENT OF A SOCIAL WORKER TO PREPARE A SOCIAL HISTORY AND FOR PAYMENT OF EXTRA-ORDINARY EXPENSES FOR SAID EXPERTS FILED Attorney: GARRETSON, JOHN A (00831) AND Attorney: SHANKS, MICHAEL D | \$0.00 | Image |
| 07/18/1989 | MOTION TO PROHIBIT THREE-JUDGE PANEL FROM RESENTENCING TO DEATH AND MOTION TO DISQUALIFY PANEL FILED Attorney: GARRETSON, JOHN A (00831), Attorney: SHANKS, MICHAEL D (18906) AND Attorney: EVANS, TIMOTHY R (18590) | \$0.00 | Image |
| 07/20/1989 | RETURN COPIES OF SUBPOENAS ISSUED (SEE IMAGES) | \$6.00 | Image |
| 07/20/1989 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES) | \$8.00 | Image |
| 07/21/1989 | MOTION TO STRIKE DEFT'S WITHDRAWAL OF JURY WAIVER AND MEMORANDUM FILED FIRST ASST PROS Attorney: EICHEL, DANIEL G (08259) | \$0.00 | Image |
| 07/24/1989 | ORDER RE TRANSCRIPT OF DEFT AND SETTING HEARING DATE ON REMAND | \$2.00 | Image |
| 07/24/1989 | MOTION TO RENEW PRETRIAL MOTIONS FILED Attorney: SHANKS, MICHAEL D (18906), GARRETSON AND EVANS | \$0.00 | Image |
| 07/24/1989 | MOTION TO PERMIT THE DEFENSE TO ADMIT ALL RELEVANT EVIDENCE AT THE SENTENCING PHASE FILED Attorney: SHANKS, MICHAEL D (18906), GARRETSON AND EVANS | \$0.00 | Image |
| 07/25/1989 | RETURN RECEIPT OF CERTIFIED MAIL OF (SEE IMAGES) | \$0.00 | Image |
| 07/25/1989 | AFFIDAVIT OF DAN EICHEL | \$0.00 | Image |
| 07/26/1989 | PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES) | \$2.00 | Image |
| 07/26/1989 | RETURN COPIES OF PRECIPE FILED SUBPOENA ISSUED (SEE IMAGES) | \$2.00 | Image |
| 07/26/1989 | MEMORANDUM IN OPPOSITION TO DEFT'S MOTION TO PROHIBIT 3-JUDGE PANEL FROM RESENTENCING TO DEATH AND TO DISQUALIFY PANEL FILED FIRST ASST PROS Attorney: EICHEL, DANIEL G (08259) | \$0.00 | Image |
| 07/26/1989 | ENTRY FILED | \$4.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQs...

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| 07/27/1989 | RETURN RECEIPT OF CERTIFIED MAIL OF (SEE IMAGE) | \$0.00 | Image |
| 08/01/1989 | ENTRY AS TO MOTIONS HEARD JULY 31 1989 | \$4.00 | Image |
| 08/04/1989 | RETURN RECEIPT OF CERTIFIED MAIL OF (SEE IMAGES) | \$0.00 | Image |
| 08/07/1989 | JUDGEMENT OF CONVICTION ENTRY FILED | \$6.00 | Image |
| 08/10/1989 | OPINION FILED | \$6.00 | Image |
| 09/06/1989 | NOTICE OF APPEAL FILED DAVID C STEBBINS, SENIOR ASST PUBLIC DEFENDER IN CA1989 09 0123 | \$0.00 | Image |
| 09/13/1989 | APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES FILED for atty.: JOHN A GARRETSON IN AMOUNT OF \$850.00 | \$8.00 | Image |
| 09/13/1989 | APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES FILED for atty.: MICHAEL D SHANKS, IN AMOUNT OF \$827.00 | \$8.00 | Image |
| 09/20/1989 | RETURN RECEIPT OF CERTIFIED MAIL OF CLERK OHIO SUPREME COURT | \$0.00 | Image |
| 09/20/1989 | RETURN-PERSONAL SERVICE OF EXECUTION FOR COSTS IN FELONY | \$3.70 | Image |
| 10/03/1989 | COPIES OF CASE DOCKET SHEET ISSUED - FILED 3-5-91 SUPREME COURT #90-2524 | \$2.25 | Image |
| 02/05/1990 | COST BILL - TOTAL FEES \$1,383.40 - FILED 3-5-91 IN SUPREME COURT OF OHIO #90-2524 | \$0.00 | Image |
| 02/09/1990 | CERTIFICATE OF MAILINGS (SEE IMAGES) | \$0.00 | Image |
| 02/13/1990 | COPY OF JOURNAL ENTRY FILED IN CA89 09 123 | \$2.00 | Image |
| 04/10/1990 | PLEASE SEE DOCKET FOR PREVIOUS FILINGS | \$0.00 | |
| 05/07/1990 | APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT (NUNC PRO TUNC 5/27/86),BRUEWER,J. (IMAGED ABOVE) | \$2.00 | |
| 05/07/1990 | APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT (NUNC PRO TUNC 5/27/86),BRUEWER,J. | \$2.00 | Image |
| 10/29/1990 | MANDATE FILED AFFIRMING CA89 09 0123 (IMAGED UNDER JUDGMENT ENTRY) | \$2.00 | |
| 10/29/1990 | JUGMENT ENTRY FILED - MANDATE CA89 09 123 - COPY OF OPINION ATTACHED | \$2.00 | Image |
| 03/30/1992 | [Clerk's memo] : SUPREME CT.OH upheld (affirmed 12th District Decision) for DEATH PENALTY CA89 09 0123 S.C.OH.# 90-2524 | \$0.00 | |
| 03/31/1992 | [Clerk's memo] : COPY OF SUPREME CT OF OH MANDATE AFIRMING & UPHOLDING DEATH PENALTY FILED, COPIES TO Grace White for issuance of Death Warrant & certified copy of Mandate to institution/ & copy to trial court file/CA-Midd & Moser,J | \$0.00 | |
| 04/08/1992 | ALL PAPERS RETURN FROM SUPREME COURT OF OH | \$0.00 | |
| 05/19/1992 | [Clerk's memo] : DATE OF SCHEDULED EXECUTION | \$0.00 | |
| 10/08/1993 | EVIDENTIARY HEARING REQUESTED ; PETITION TO VACATE OR SET ASIDE SENTENCE: R.C. 2953.21 FILED BY ATTY JOANN BOUR-STOKES & LINDA E PRUCHA FOR DEFENDANT | \$0.00 | Image |
| 10/08/1993 | EVIDENTIARY HEARING REQUESTED; PETITION TO VACATE OR SET ASIDE SENTENCE; R.C.2953.21 FILED BY ATTY JOANN BOUR-STOKES/LINDA E PRUCHA FOR DEFENDANT (EXHIBITS ATTACHED) | \$0.00 | Image |
| 10/18/1993 | ANSWER AND MOTION TO DISMISS DEFT'S PETITION FOR POSTCONVICTION RELIEF FILED | | Image |
| 10/18/1993 | ASSIGNMENT OF JUDGE CREHAN FROM JUDGE MOSER FILED ELLIOTT,J | \$0.00 | Image |
| 10/20/1993 | DEFT'S MOTION FOR JUDGE MOSER TO RECUSE HIMSELF FILED | \$0.00 | Image |
| 03/14/1994 | ORDER SETTING CONFERENCE FOR 3/30/94 AT 4:00PM FILED CREHAN,J | \$2.00 | Image |
| 03/30/1994 | STATE'S MOTION FOR LEAVE TO FILE ADDITIONAL PAGE OF THE STATE'S | \$0.00 | |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQs... 7/28

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| MEMORANDUM IN SUPPORT OF MOTION TO DISMISS FILED/DAN EICHEL,ATTY | | | |
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| 04/04/1994 | JOURNAL ENTRY SETTING DATE FOR ORAL ARGUMENT SET: 6/24/94 9:00 AM FILED CREHAN,J | \$4.00 | Image |
| 04/07/1994 | AMENDED ENTRY SETTING DATE FOR ORAL ARGUMENT FILED CREHAN,J | \$4.00 | Image |
| 04/11/1994 | DEFT'S MOTION TO STRIKE AND MEMORANDUM FILED/JOANN BOUR-STOKES AND L PRUCHA,ATTYS | \$0.00 | Image |
| 04/12/1994 | MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO STRIKE FILED BY ATTY DAN EICHEL | \$0.00 | Image |
| 11/01/1994 | ENTRY RE: DEFTS MOTION FOR POST CONVICTION RELIEF;MOTION TO STRIKE AND SETTING DATE FOR EVIDENTIARY HEARING 11/23/94 FILED,CREHAN,J (DAVIS) | \$16.00 | Image |
| 11/16/1994 | HEARING ON PETITION FOR POST-CONVICTION RELIEF SET 12-20-94 1:15 FILED ASSIGNMENT COMMISSIONER CINDY BAKER | \$0.00 | Image |
| 12/05/1994 | DEFENDANT'S FIRST SET OF INTERROGATORIES TO PLAINTIFF FILED JOANN M JOLSTAD, LINDA E PRUCHA OH PUBLIC DEFENDER | \$0.00 | Image |
| 12/05/1994 | MOTION TO SECURE ATTENDANCE OF VON CLARK DAVIS AT POST-CONVICITON EVIDENTIARY HEARING FILED JOANN M JOLSTAD, OH PUBLIC DEFENDER FOR VON CLARK DAVIS | \$0.00 | Image |
| 12/05/1994 | PRECIPE FILED SUBPOENA ISSUED TO HON. JOHN R. MOSER, HON. WILLIAM R. STITSINGER ON DECEMBER 5, 1994 BY JOHN F. HOLCOMB, PROS. ATTY. | \$4.00 | Image |
| 12/07/1994 | ORDER: WARRANT TO CONVEY PRISONER FOR POST CONVICTION HEARING R.C. 2953.22 FILED SAGE,J FOR CREHAN,J (VON CLARK DAVIS) | \$2.00 | Image |
| 12/09/1994 | RETURN:PERSONAL SERVICE OF SUBPOENA UPON : TO HON. JOHN R. MOSER ON DECEMBER 9, 1994 BY JIM FARQUIS, PROCESS SERVER | \$0.00 | Image |
| 12/14/1994 | ORDER VACATING WARRANT TO CONVEY PRISONER AND RESCHEDULING HEARING DATE UNTIL 1-11-95 10L00AM FILED CREHAN,J | \$2.00 | Image |
| 01/05/1995 | ORDER: warrant to convey prisoner for postconviction hearing filed SAGE,J FOR MATTHEW J CREHAN (VON CLARK DAVIS) | \$2.00 | Image |
| 01/06/1995 | RETURN:PERSONAL SERVICE OF SUBPOENA UPON : TO HON. JOHN R. MOSER ON JANUARY 6, 1995 BY PROCESS SERVER | \$0.00 | Image |
| 01/06/1995 | RETURN:PERSONAL SERVICE OF SUBPOENA UPON : TO HON WILLIAM R. STITSINGER ON JANUARY 6, 1995 BY PROCESS SERVER | \$0.00 | Image |
| 01/06/1995 | PRECIPE FILED SUBPOENA ISSUED TO HON. WILLIAM R. STITSINGER, HON. JOHN R. MOSER ON JANUARY 6, 1995 BY JOHN F. HOLCOMB, ATTY. | \$4.00 | Image |
| 01/12/1995 | JOURNAL ENTRY : ORDER TO RETURN DEFENDANT TO SOUTHERN OH CORRECTIONAL FACILITY FILED CREHAN,J | \$2.00 | Image |
| 01/12/1995 | TRANSCRIPT FEE | \$72.50 | |
| 01/25/1995 | ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE\Cl.Reprtr SHIRLEY ROESCH \$72.50 FILED CREHAN,J | \$2.00 | Image |
| 01/25/1995 | JOURNAL ENTRY STATEMENT FROM SHIRLEY ROESCH TO PROSECUTOR'S OFFICE \$72.50 FILED CREHAN,J | \$4.00 | Image |
| 01/30/1995 | *TRANSCRIPT OF POST CONVICTION RELIEF HEARING FILED SHIRLEY ROESCH,COURT REPORTER *** FILED @ RECORDS CENTER*** | \$0.00 | |
| 01/30/1995 | CERTIFICATE \ TRANSCRIPT FEES ,filed (amount +\$2.in line 3) (certified copies>Auditor) \$217.50 TO SHIRLEY ROESCH,COURT REPORTER FILED CREHAN,J | \$2.00 | Image |
| 01/30/1995 | ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE\Cl.Reprtr \$217.50 TO SHIRELEY ROESCH,COURT REPORTER FILED CREHAN,J | \$2.00 | Image |
| 01/30/1995 | TRANSCRIPT FEE | \$217.50 | |
| 01/30/1995 | EXHIBIT FILED BY COURT REPORTER SHIRLEY ROESCH *** FILED @ RECORDS CENTER*** | \$0.00 | |
| 02/21/1995 | POST EVIDENTIARY HEARING BRIEF FILED | | Image |
| 02/22/1995 | SHERIFFS RETURN OF PERSONAL SERVICE OF ENTRY UPON: VON CLARK DAVIS DATE: 01-10-95 BY BCSD | \$3.00 | Image |
| 02/28/1995 | SHERIFFS RETURN OF PERSONAL SERVICE OF ENTRY UPON: VON CLARK DAVIS DATE: 02-11-95 BY BCSD (PER JAIL ALREADY) | \$0.00 | |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJBWDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQs... 8/28

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| 03/02/1995 | STATE'S MEMORANDUM IN RESPONSE FILED | \$0.00 | Image |
| 03/15/1995 | POST-EVIDENTIARY HEARING REPLY BRIEF FILED JOANN JOLSTAD, LINDA E PRUCHA, ATTYS FOR VON CLARK DAVIS | \$0.00 | Image |
| 06/30/1995 | FINAL APPEALABLE ORDER DISMISSAL ENTRY; PETITIONER'S PETITION FOR A HEARING IS DENIED AND THE MOTION OF THE STATE OF OHIO TO DISMISS THE PETITION FOR POST-CONVICTION RELIEF IS GRANTED FILED CREHAN,J | \$0.00 | Image |
| 07/31/1995 | NOTICE OF APPEAL FILED/CA95 07 0124 cc:CA-Midd;Judge;CDS>file & by mail>attys\parties indicated as of record BY LINDA E PRUCHA & TRACEY LEONARD,ASST ST PUBLIC DEFENDER,ATTYS | \$25.00 | |
| 10/09/1996 | MANDATE filed,forwarded to C.A.fileroom clerk > 12thDistrict AppealsCourt # CA95 07 124 PAGE 22 CORRECTED OPINION 9-30-96 | \$0.00 | |
| 10/09/1996 | CERTIFIED COPY OF CORRECTED PAGE TWENTY-TWO FOR BUTLER CA95 07 124 OPINION RELEASED 9-30-96 FILED 3-5-99 SUPREME COURT OF OHIO 99-0252 | \$2.00 | Image |
| 02/25/1999 | ALL PAPERS SENT TO SUPREME COURT OF OHIO | \$0.00 | |
| 09/15/1999 | ALL PAPERS RETURN FROM SUPREME COURT OF OHIO | \$0.00 | |
| 10/18/2007 | ENTRY SCHEDULING STATUS CONFERENCE FILED | \$2.00 | Image |
| 11/06/2007 | APPOINTMENT OF ATTORNEY FOR INDIGENT DEFENDANT RANDALL L PORTER, ASST. PUBLIC DEFENDER FOR DEFENDANT VON CLARK DAVIS | \$2.00 | Image |
| 11/19/2007 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY ON 12/03/2007 @ 9:00 AM FILED | \$6.00 | Image |
| 11/27/2007 | WAIVER OF APPEARANCE OF VON CLARK DAVIS FOR THE NOVEMBER 05, 2007 STATUS CONFERENCE FILED Attorney: PORTER, RANDALL L (0005835) | \$4.00 | Image |
| 12/03/2007 | NOTICE OF FILING BY VON CLARK DAVIS FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 12/04/2007 | Time Waiverof Speedy Trial requirements filed | \$2.00 | Image |
| 12/04/2007 | Time Waiverof Speedy Trial requirements filed | \$4.00 | |
| 12/05/2007 | APPOINTMENT OF TRIAL COUNSEL IN A CAPITAL CASE FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596) | \$2.00 | Image |
| 12/06/2007 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: HEARING Date: 02/04/2008 Time: 2:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor | | Image |
| 12/19/2007 | ORDER GRANTING A NEW SENTENCING HEARING FILED | \$2.00 | Image |
| 12/21/2007 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY ON 02/04/2008 @ 1:00 PM FILED | \$6.00 | Image |
| 02/05/2008 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 03/06/2008 Time: 3:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor | | Image |
| 02/05/2008 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 06/26/2008 Time: 9:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor Result: VACATED | | Image |
| 02/06/2008 | LETTER TO JUDGE NASTOFF REGARDING VON CLARK DAVIS FILED | \$0.00 | Image |
| 02/15/2008 | BON CLARK DAVIS MOTION TO BE HEARD EX PARTE ON MOTIONS FOR APPROPRIATION OF FUNDS Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 02/20/2008 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY ON 03/06 2008 | \$6.00 | Image |
| 02/26/2008 | MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO PERMIT THE | \$0.00 | Image |

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| | ACCUSED TO BE HEARD EX PARTE ON APPROPRIATION OF FUNDS FOR EXPERT ASSISTANCE Attorney: EICHEL, DANIEL G (08259) Attorney: OSTER JR Junior, MICHAEL A (0076491) | | |
| 03/14/2008 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: HEARING Date: 03/18/2008 Time: 4:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor | | |
| 03/18/2008 | ENTRY REGARDING POTENTIAL THREE-JUDGE PANEL FILED | \$4.00 | Image |
| 03/19/2008 | ENTRY GRANTING DEFENDANT'S MOTION AND MEMORANDUM FOR THE APPROPRIATION OF FUNDS FOR A MITIGATION SPECIALIST FILED | \$2.00 | Image |
| 03/19/2008 | ENTRY GRANTING DEFENDANT'S MOTION AND MEMORANDUM FOR THE APPROPRIATION OF FUNDS FOR A PRIVATE INVESTIGATOR FILED | \$2.00 | Image |
| 03/31/2008 | ENTRY AS TO RELEASE OF INSTITUTIONAL RECORDS FILED | \$2.00 | Image |
| 04/03/2008 | ENTRY UNDER SEAL FILED NASTOFF, J | \$2.00 | Image |
| 04/03/2008 | ENTRY UNDER SEAL FILED NASTOFF, J | \$2.00 | Image |
| 04/10/2008 | VON CLARK DAVIS' MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER FILED Attorney: COOK-REICH, MELYNDA (0066596) | \$0.00 | Image |
| 04/15/2008 | VON CLARK DAVIS' AMENDED MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 04/22/2008 | STATE'S MEMORANDUM IN RESPONSE, OPPOSING DEFENDANT'S AMENDED MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER IFLED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 04/23/2008 | NOTICE OF APPEAL OF VON CLARK DAVIS CA2008 04 0111 FILED copy to CA, Appellee & counsel; Judge, CA deputy clerk Attorney: PORTER, RANDALL L (0005835) | \$25.00 | Image |
| 05/01/2008 | VON CLARK DAVIS' REPLY IN SUPPORT OF HIS MOTION FOR THE COURT TO RESCIND ITS MARCH 31, 2008 ORDER FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 05/08/2008 | JOURNAL ENTRY FILED | \$2.00 | Image |
| 05/16/2008 | VON CLARK DAVIS' MOTION FOR EXTENSION OF TIME TO FILE DEFENDANT'S MOTIONS FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 05/20/2008 | ENTRY GRANTING MOTION FOR EXTENSION OF TIME FILED | \$2.00 | Image |
| 05/22/2008 | JUDGMENT ENTRY FILED | \$4.00 | Image |
| 05/27/2008 | VON CLARK DAVIS'S MOTION TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BECAUSE OHIO'S LETHAL INJECTION CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT (APPENDIX, VOLUME I) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/27/2008 | VON CLARK DAVIS' MOTION TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BECAUSE OHIO'S LETHAL INJECTION CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT (APPENDIX, VOLUME II) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/27/2008 | VON CLARK DAVIS' MOTION TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BECAUSE OHIO'S LETHAL INJECTION CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT (EVIDENTIARY HEARING REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/27/2008 | VON CLARK DAVIS' MOTION FOR DISCLOSURE OF EXCULPATORY EVIDENCE (ORAL ARGUMENT REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/27/2008 | VON CLARK DAVIS'S MOTION TO REQUIRE A SEALED COPY OF THE PROSECUTION'S FILE BE MADE PART OF THE RECORD FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/27/2008 | VAN CLARK DAVIS' MOTION TO DISMISS THE CAPITAL SPECIFICATION CONTAINED IN INDICTMENT (ORAL ARGUMENT REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/28/2008 | STATE'S MOTION FOR CONTINUANCE AND AN EXTENSION OF TIME TO FILE | \$0.00 | Image |

http://pa.bufilecountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 10/28

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| | MOTIONS/MEMORANDA IN RESPONSE TO DEFENDANT'S MOTION FILED 5/27/2008 FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER JR Junior, MICHAEL A (0076491) | | |
| 05/28/2008 | STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO REQUIRE A SEALED COPY OF THE PROSECUTOR'S FILE TO BE MADE PART OF THE RECORD FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER JR Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 05/28/2008 | VON CLARK DAVIS' MOTION TO SUPPRESS PRETRIAL AND TRIAL IDENTIFICATIONS FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/30/2008 | VON CLARK DAVIS' LIMITED DEMAND FOR DISCOVERY FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/30/2008 | VON CLARK DAVIS' MOTION FOR PRE-TRIAL DISCLOSURE OF POLICE REPORTS AND WITNESS STATEMENTS FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 05/30/2008 | VON CLARK DAVIS' MOTION TO COMPEL LAW ENFORCEMENT OFFICIALS TO PROVIDE THE PROSECUTING ATTORNEY WITH ALL THE INFORMATION ACQUIRED DURING THE COURSE OF THEIR INVESTIGATION FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 06/04/2008 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: HEARING Date: 06/12/2008 Time: 3:00 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor | | |
| 06/04/2008 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM STATE PENITENTIARY FILED | \$6.00 | Image |
| 06/13/2008 | VON CLARK DAVIS' FIRST NOTICE OF ADDITIONAL AUTHORITY (EVIDENTIARY HEARING REQUESTED) FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY) | \$0.00 | Image |
| 06/16/2008 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: The following event: MOTION scheduled for 06/26/2008 at 9:00 am has been rescheduled as follows: Event: MOTION Date: 08/27/2008 Time: 9:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor | | Image |
| 06/27/2008 | VON CLARK DAVIS' MEMORANDUM CONCERNING HIS RIGHT TO A JURY TRIAL WITH RESPECT TO RESENTENCING (EVIDENTIARY HEARING REQUESTED PLEADING L) FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY) | \$0.00 | Image |
| 06/27/2008 | VON CLARK DAVIS' MOTION TO SUPPRESS PRETRIAL AND TRIAL IDENTIFICATION (EVIDENTIARY HEARING REQUESTED PLEADING K) FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY) | \$0.00 | Image |
| 06/30/2008 | VON CLARK DAVIS' MOTION FOR FUNDING TO RETAIN DR. MARK HEATH, M.D. (ORAL ARGUMENT REQUESTED PLEADING N) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 06/30/2008 | VON CLARK DAVIS' MOTION TO PRECLUDE THE STATE FROM SEEKING THE DEATH PENALTY (ORAL ARGUMENT REQUESTED PLEADING M) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 06/30/2008 | VON CLARK DAVIS' MOTION TO TRANSCRIBE THE GRAND JURY PROCEEDINGS (ORAL ARGUMENT REQUESTED PLEADING O) FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MEMORANDUM "L" "CONCERNING RIGHT TO A JURY TRIAL WITH RESPECT TO RESENTENCING" [sic] FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | MEMORANDUM IN OPPOSITION TO PRECLUDE USE OF DEATH PENALTY FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION "M" TO PRECLUDE THE STATE FROM SEEKING THE DEATH PENALTY FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM "O" IN OPPOSITION TO DEFENDANT'S MOTION FOR A PRE-TRIAL COPY OF THE TRANSCRIPT OF GRAND JURY PROCEEDINGS FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM "N" IN OPPOSITION TO DEFENDANT'S MOTION FOR | \$0.00 | Image |

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| 07/23/2008 | STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION FOR FUNDING TO RETAIN AN EXPERT FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION "I" FOR PRE-TRIAL DISCLOSURE OF POLICE REPORTS AND WITNESS STATEMENTS FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S SUPPLEMENTAL DISCOVERY "H" FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MOTION TO STRIKE AND MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTIONS TO SUPPRESS PRETRIAL AND TRIAL IDENTIFICATIONS [DESIGNATED MOTION "G" AND "K"] FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION "F" TO DISMISS THE CAPITAL SPECIFICATION CONTAINED IN THE INDICTMENT FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM "D" IN RESPONSE TO DEFENDANT'S MOTION FOR EXCULPATORY EVIDENCE FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/25/2008 | STATE'S MEMORANDUM IN RESPONSE TO DEFENDANT'S MOTION "J" TO COMPEL LAW ENFORCEMENT OFFICIALS TO PROVIDE THE PROSECUTING ATTORNEY WITH ALL THE INFORMATION ACQUIRED DURING THE COURSE OF INVESTIGATION FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 07/28/2008 | VON CLARK DAVIS' NOTICE OF INTENT TO APPEAL TO THE OHIO SUPREME COURT FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 08/22/2008 | Issue Date: 08/22/2008 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: QUILAN, JASON Cost Per: \$ 1.00 HAMILTON POLICE DEPT CUSTODIAN OF RECORDS 331 SOUTH FRONT ST HAMILTON, OH 45011 Tracking No: C000059533 COLEMAN, WADE [REDACTED] HAMILTON, OH 45011 Tracking No: C000059534 WILLIAMS, RONNIE D [REDACTED] HAMILTON, OH 45013 Tracking No: C000059535 BRYANT, MONA ALDRIDGE [REDACTED] MIDDLETOWN, OH 45044 Tracking No: C000059536 LOVETT, MARK [REDACTED] MIDDLETOWN, OH 45044 Tracking No: C000059537 DENMARK, COZETTA MASSEY [REDACTED] CINTI, OH 45204 Tracking No: C000059538 MCCREARY, JODAWNA SOUTHERN [REDACTED] CINCINNATI, OH 45231 Tracking No: C000059539 | \$8.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 12/28

3/23/2015

CourtView Justice Solutions

DENMARK, REGINALD

CINCINNATI, OH 45214
Tracking No: C000059540

| | | | |
|------------|---|--------|-----------------------|
| 08/22/2008 | PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 08/22/2008 12:55:32 | \$1.00 | Image |
| 08/22/2008 | PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 08/22/2008 12:55:43 | \$1.00 | |
| 08/25/2008 | STATE'S SUPPLEMENTAL AUTHORITY FOR MOTION 'C' FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 08/25/2008 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 08/27/2008 @ 9:00 AM FILED | \$6.00 | Image |
| 08/25/2008 | STATE'S NOTICE OF ADDITIONAL AUTHORITY RE: DEFENDANT'S MOTIONS F, G, I, J, K & L FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : BRYANT, MONA ALDRIDGE Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000059536 | \$0.00 | Image |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : HAMILTON POLICE DEPT Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000059533 | \$0.00 | Image |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : COLEMAN, WADE Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000059534 | \$0.00 | Image |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : MCCREARY, JODAWNA SOUTHERN Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : | \$0.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 13/28

3/23/2015

CourtView Justice Solutions

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| Tracking #: C000059539 | | | |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : DENMARK, REGINALD Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : | \$0.00 | Image |
| Tracking #: C000059540 | | | |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/26/2008 Return : 08/26/2008 On : WILLIAMS, RONNIE D Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : | \$0.00 | Image |
| Tracking #: C000059535 | | | |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : DENMARK, COZETTA MASSEY Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : | \$0.00 | Image |
| Tracking #: C000059538 | | | |
| 08/26/2008 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/22/2008 Service : SUBPOENA BY PROCESS SERVER Served : 08/23/2008 Return : 08/26/2008 On : LOVETT, MARK Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : | \$0.00 | Image |
| Tracking #: C000059537 | | | |
| 08/28/2008 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 10/10/2008 Time: 1:30 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor Result: VACATED | | Image |
| 08/28/2008 | VON CLARK DAVIS' NOTICE OF FILING OF EXHIBITS IN SUPPORT OF MOTION O FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 08/28/2008 | VON CLARK DAVIS' NOTICE OF FILING OF ADDITIONAL AUTHORITY IN SUPPORT OF PLEADING P FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 08/29/2008 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 10/10/2008 @ 1:30 PM FILED | \$6.00 | Image |
| 09/09/2008 | VON CLARK DAVIS' NOTICE OF FILING OF ADDITIONAL AUTHORITY IN SUPPORT OF PLEADING M FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 14/28

3/23/2015

CourtView Justice Solutions

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|------------|---|---------|-----------------------|
| 09/17/2008 | VON CLARK DAVIS' MOTION FOR A TWO DAY EXTENSION FOR THE PARTIES TO SUBMIT BRIEFING ON THE RIPENESS ISSUE FILED Attorney: PORTER, RANDALL L (0005835) (FAX COPY) | \$0.00 | Image |
| 09/19/2008 | VON CLARK DAVIS' BRIEFING ON THE ISSUE OF RIPENESS FILED Attorney: PORTER, RANDALL L (0005835) | | Image |
| 09/19/2008 | SUPPLEMENTAL MEMORANDUM BY STATE IN OPPOSITION TO DEFENDANT'S MOTION "P" TO PRECLUDE IMPOSITION OF THE DEATH PENALTY BY LETHAL INJECTION FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 09/30/2008 | ORDER GRANTING MOTION FOR A TWO DAY EXTENSION FOR THE PARTIES TO SUBMIT BRIEFING ON THE RIPENESS ISSUE FILED (FAX COPY) | \$2.00 | Image |
| 10/02/2008 | MOTION TO PROVIDE DISCOVERY FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 10/08/2008 | VON CLARK DAVIS' WAIVER OF ORAL ARGUMENT SET FOR OCTOBER 10, 2008 FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 10/08/2008 | VON CLARK DAVIS' WAIVER OF ORAL ARGUMENT SET FOR OCTOBER 10, 2008 FILED Attorney: PORTER, RANDALL L (0005835) | \$2.00 | Image |
| 10/09/2008 | MOTION TO VACATE HEARING AND TRANSPORT ORDER FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 10/10/2008 | VON CLARK DAVIS' MOTION TO REQUIRE THE BUTLER COUNTY SHERIFF TO CONVEY MR. DAVIS FOR TESTING AND TO MAKE THE APPROPRIATE ACCOMMODATIONS FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 10/13/2008 | ENTRY AND ORDER ALLOWING NEUROPSYCHOLOGIST ACCESS TO DEFENDANT LOCATED AT BUTLER COUNTY JAIL FILED | \$4.00 | Image |
| 10/15/2008 | ORDER TO VACATE HEARING AND TRANSPORT ORDER FILED | \$2.00 | Image |
| 11/07/2008 | MOTION "Q" VAN CLARK DAVIS' RESPONSE TO DISCOVERY FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 11/07/2008 | MOTION "S" VON CLARK DAVIS' MOTION FOR TO CONTINUE THE DECEMBER 15, 2008 SENTENCING HEARING FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 11/07/2008 | MOTION "R" VON CLARK DAVIS' SECOND MOTION TO BE HEARD EX PARTE ON FUNDING ISSUES FILED Attorney: PORTER, RANDALL L (0005835) Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 11/13/2008 | STATE'S RESPONSE TO DEFENDANT'S MOTION FOR CONTINUANCE FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 11/18/2008 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 11/24/2008 @ 9:00 AM FILED | \$6.00 | Image |
| 11/24/2008 | PRETRIAL COURT JOURNAL ORDER | \$2.00 | Image |
| 12/11/2008 | VON CLARK DAVIS' RENEWED MOTION TO STAY THE COURT'S MARCH 31, 2008 ORDER FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 12/29/2008 | ENTRY JOURNALIZING DECISION ON MOTIONS FILED BY DEFENDANT FILED | \$64.00 | Image |
| 02/06/2009 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A SENTENCE HEARING ON 05/11/2009 @ 8:30 AM FILED | \$6.00 | Image |
| 03/12/2009 | MOTION FOR ORDER OR SANCTIONS UNDER CRIM.R. 16(E)(3) FOR DEFENSE NON-DISCLOSURE OF DISCOVERABLE MATTERS FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 03/17/2009 | MOTION IN LIMINE FOR ORDER AS TO PROCEDURE TO BE FOLLOWED FOR CONSIDERATION OF EVIDENCE ADMITTED AT 1984 "GUILT-PHASE" TRIAL FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 03/24/2009 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: MOTION Date: 04/02/2009 Time: 1:30 pm Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor Result: RESET HEARING | | |
| 03/24/2009 | VON CLARK DAVIS' ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) (FAX COPY) | \$0.00 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhoFURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 15/28

3/23/2015

CourtView Justice Solutions

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|------------|---|------------|-----------------------|
| 03/25/2009 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A MOTION HEARING ON 04/02/2009 @ 8:30 AM FILED | \$6.00 | Image |
| 03/26/2009 | COURT ADMINISTRATION OFFICE HAS SCHEDULED: The following event: MOTION scheduled for 04/02/2009 at 1:30 pm has been rescheduled as follows: Event: MOTION Date: 04/08/2009 Time: 10:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor | | |
| 03/30/2009 | TRANSCRIPT REQUEST FILED | \$0.00 | Image |
| 04/02/2009 | TRANSCRIPT OF PROCEEDING MOTION HEARING ON AUGUST 28, 2008 FILED | \$3.00 | Image |
| 04/02/2009 | TRANSCRIPT OF PROCEEDING MOTION HEARING ON AUGUST 27, 2008 FILED | \$3.00 | Image |
| 04/02/2009 | VON CLARK DAVIS' MOTION TO EXTEND THE TIME TO ANSWER THE STATE'S MOTION IN LIMINE FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 04/03/2009 | TRANSCRIPT REQUEST FILED | \$0.00 | Image |
| 04/06/2009 | VON CLARK DAVIS' MEMORANDUM CONTRA TO THE STATE'S MOTION IN LIMINE FILED Attorney: PORTER, RANDALL L (0005835); Attorney: COOK REICH, MELYNDA (0066596) (FAX COPY) | \$0.00 | Image |
| 04/07/2009 | STATE'S SUPPLEMENTAL DISCOVERY FILED Attorney: EICHEL, DANIEL G (0008259) | \$0.00 | Image |
| 04/08/2009 | STATE'S REPLY: MEMORANDUM TO THE DEFENDANT'S MEMORANDUM CONTRA THE STATE'S MOTION IN LIMINE RE: PROCEDURE FILED Attorney: EICHEL, DANIEL G (0008259); Attorney: OSTER Junior, MICHAEL A (0076491) | | Image |
| 04/08/2009 | VON CLARK DAVIS' NOTICE OF FILING FILED Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 04/08/2009 | NOTICE OF COUNSEL'S CHANGE OF ADDRESS FILED Attorney: PORTER, RANDALL L (0005835) | \$0.00 | Image |
| 04/09/2009 | MOTION AND CERTIFICATION BY COURT REPORTER FOR TRANSCRIPTION FEES FILED | \$0.00 | Image |
| 04/09/2009 | ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE \$1,252.50\Cl.Reprtr | \$2.00 | Image |
| 04/09/2009 | CERTIFICATE \ TRANSCRIPT FEES \$1,252.50, filed (amount +\$2.in line 3) (certified copies>Auditor) | \$2.00 | Image |
| 04/09/2009 | TRANSCRIPT FEE | \$1,252.50 | |
| 04/13/2009 | STATE'S SUPPLEMENTAL DISCOVERY (4/13/2009) FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 04/20/2009 | VON CLARK DAVIS' NOTICE OF FILING # 3 FILED Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 04/20/2009 | VON CLARK DAVIS' OBJECTIONS TO THE COURT'S PROPOSED PROCEDURES CONCERNING THE TRIAL PHASE TESTIMONY AND EVIDENCE FILED Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 04/21/2009 | VON CLARK DAVIS' SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596); Attorney: PORTER, RANDALL (0005835) (FAX) | \$0.00 | Image |
| 04/21/2009 | VON CLARK DAVIS' MOTION TO FILE RECORDS UNDER SEAL FILED Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 04/24/2009 | EXHIBIT (EMAIL FROM JUDGES) FILED | \$0.00 | Image |
| 04/27/2009 | VON CLARK DAVIS' NOTICE OF FILING UNDER SEAL FILED Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 04/27/2009 | ENTRY GRANTING MOTION TO FILE RECORDS UNDER SEAL FILED | \$2.00 | |
| 04/30/2009 | Issue Date: 04/30/2009 Service: SUBPOENA BY RESIDENCE SERVICE Method: SERVICE BY SHERIFF OF BUTLER COUNTY | \$8.00 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpynbAQevfaHQtr1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 16/28

3/23/2015

CourtView Justice Solutions

Cost Per: \$ 2.00

FURMON, CHARLES R

[REDACTED]
HAMILTON, OH 45013
Tracking No: C000190277

CARPENTER, RICHARD R

[REDACTED]
HAMILTON, OH 45011
Tracking No: C000190278BRANDABUR, Dr JOSEPH H
BUTLER COUNTY CORONER'S OFFICE
200 N "F" STREET
HAMILTON, OH 45011
Tracking No: C000190279

CUNNINGHAM, LESLIE

[REDACTED]
TROTWOOD, OH 45246
Tracking No: C000190280

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|------------|---|--------|-----------------------|
| 04/30/2009 | PRECIPE FILED AND SUBPOENA BY RESIDENCE SERVICE ISSUED. SUBPOENA BY RESIDENCE SERVICE Sent on: 04/30/2009 13:06:14 | \$1.00 | Image |
| 04/30/2009 | STATE'S SUPPLEMENTAL DISCOVERY FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 04/30/2009 | DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 04/30/2009 | DEFENDANT'S NOTICE OF WITHDRAWAL OF MOTION TO FILE RECORDS UNDER SEAL FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 05/01/2009 | RETURN: RESIDENCE SERVICE UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE Served : 05/01/2009 Return : 05/01/2009 On : CUNNINGHAM, LESLIE Signed By : Reason : RESIDENCE SERVICE SUCCESSFUL Comment : MAILED OUT Tracking #: C000190280 | \$7.50 | Image |
| 05/04/2009 | TRANSCRIPT REQUEST FILED | \$0.00 | Image |
| 05/05/2009 | STATE'S SUPPLEMENTAL DISCOVERY (5/5/09) FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 05/06/2009 | Issue Date: 05/06/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: ATTORNEY Cost Per: \$ 5.00 | \$5.00 | Image |

SMITH, CAROLA

[REDACTED]
FOREST PARK, OH 45240
Tracking No: C000067043

DAVIS, ELLIOT BUTCH

[REDACTED]
HAMILTON, OH 45011

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 17/28

3/23/2015

CourtView Justice Solutions

Tracking No: C000067044

NOWACK, SCOTT
C/O OHIO STATE PENITENTIARY
878 COITSVILLE HUBBARD RD
YOUNGSTOWN, OH 44505
Tracking No: C000067045

TIPTON, CHARLES
[REDACTED]
CINCINNATI, OH 45240
Tracking No: C000067046

DAVIS, VICTOR L
[REDACTED]
HAMILTON, OH 45011
Tracking No: C000067047

TIPTON, ALLUSTER
[REDACTED]
FOREST PARK, OH 45240
Tracking No: C000067048

DAVIS, SHERRY
[REDACTED]
FOREST PARK, OH 45240
Tracking No: C000067049

05/06/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY PROCESS SERVER
Sent on: 05/06/2009 13:13:14

05/07/2009 Issue Date: 05/07/2009 \$5.00 [Image](#)

Service: SUBPOENA BY PROCESS SERVER
Method: SERVICE BY PROCESS SERVER
Provider: ATTORNEY
Cost Per: \$ 5.00

NOWACK, SCOTT
C/O OHIO STATE PENITENTIARY
878 COITSVILLE HUBBARD RD
YOUNGSTOWN, OH 44505
Tracking No: C000067059

05/07/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY PROCESS SERVER
Sent on: 05/07/2009 09:28:43

05/07/2009 Issue Date: 05/07/2009 \$5.00 [Image](#)

Service: SUBPOENA BY PROCESS SERVER
Method: SERVICE BY PROCESS SERVER
Provider: ATTORNEY
Cost Per: \$ 5.00

ROTUNDO, RICK
[REDACTED]
LOVELAND, OH 45140
Tracking No: C000067072

FLOWERS, DELBERT
[REDACTED]
GAITHERSBURG, MD 20878
Tracking No: C000067073

3/23/2015

CourtView Justice Solutions

MAUSSEN, CYNTHIA
ADULT PAROLE AUTHORITY
770 WEST BROAD ST
COLUMBUS, OH 43215
Tracking No: C000067074

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|------------|---|--------|-----------------------|
| 05/07/2009 | PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 05/07/2009 14:17:28 | \$1.00 | Image |
| 05/07/2009 | ENTRY APPOINTING SPECIAL PROCESS SERVER FILED | \$2.00 | Image |
| 05/07/2009 | DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 05/08/2009 | Issue Date: 05/08/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: ATTORNEY Cost Per: \$ 5.00 | \$5.00 | Image |

STINEMAN, JEROME
[REDACTED]
CINCINNATI, OH 45208
Tracking No: C000067120

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|------------|---|--------|-----------------------|
| 05/08/2009 | PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 05/08/2009 14:38:11 | \$1.00 | Image |
| 05/08/2009 | DEFENDANT'S MOTION IN LIMINE FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 05/08/2009 | DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 05/08/2009 | DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) (FAX) | \$0.00 | Image |
| 05/11/2009 | RETURN: RESIDENCE SERVICE UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE Served : 05/04/2009 Return : 05/11/2009 On : BRANDABUR, Dr JOSEPH H Signed By : Reason : RESIDENCE SERVICE SUCCESSFUL Comment : SUB SERVED UPON: SALLY POYNTER Tracking #: C000190279 | \$8.00 | Image |
| 05/11/2009 | RETURN-PERSONAL SERVICE OF DOCUMENTS UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE Served : 05/05/2009 Return : 05/11/2009 On : CARPENTER, RICHARD R Signed By : Reason : PERSONAL SERVICE SUCCESSFUL Comment : Tracking #: C000190278 | \$9.50 | Image |
| 05/11/2009 | RETURN-PERSONAL SERVICE OF DOCUMENTS UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 04/30/2009 Service : SUBPOENA BY RESIDENCE SERVICE | \$9.50 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJBWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 19/28

3/23/2015

CourtView Justice Solutions

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| | <p>Served : 05/04/2009 Return : 05/11/2009 On : FURMON, CHARLES R Signed By :</p> <p>Reason : PERSONAL SERVICE SUCCESSFUL Comment :</p> <p>Tracking #: C000190277</p> | | |
| 05/11/2009 | ENTRY FILED | \$2.00 | Image |
| 05/12/2009 | TRANSCRIPT REQUEST FILED | \$0.00 | Image |
| 05/13/2009 | <p>COURT ADMINISTRATION OFFICE HAS SCHEDULED: Event: PRETRIAL CONFERENCE HEARING Date: 09/03/2009 Time: 11:00 am Judge: NASTOFF, Honorable ANDREW Location: General Division Court Govt Serv Ctr 3rd floor</p> | | Image |
| 05/13/2009 | <p>PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 05/07/2009 Service : SUBPOENA BY PROCESS SERVER Served : 05/08/2009 Return : 05/13/2009 On : NOWACK, SCOTT Signed By :</p> <p>Reason : PROCESS SERVICE SUCCESSFUL Comment :</p> <p>Tracking #: C000067059</p> | \$0.00 | Image |
| 05/13/2009 | <p>PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 05/07/2009 Service : SUBPOENA BY PROCESS SERVER Served : 05/08/2009 Return : 05/13/2009 On : MAUSSEN, CYNTHIA Signed By :</p> <p>Reason : PROCESS SERVICE SUCCESSFUL Comment :</p> <p>Tracking #: C000067074</p> | \$0.00 | Image |
| 05/19/2009 | TRANSCRIPT OF PROCEEDING MOTION HEARING APRIL 8, 2009 FILED | \$3.00 | Image |
| 05/22/2009 | ORDER FOR TRANSPORT BY SHERIFF TO HEARING FROM OHIO STATE PENITENTIARY FOR A PRE-TRIAL CONFERENCE ON 09/03/2009 @ 9:00 AM FILED | \$6.00 | Image |
| 06/03/2009 | MOTION AND CERTIFICATION BY COURT REPORTER FOR TRANSCRIPTION FEES FILED | \$0.00 | Image |
| 06/03/2009 | CERTIFICATE \ TRANSCRIPT FEES \$450.00, filed (amount +\$2.in line 3) (certified copies>Auditor) | \$2.00 | Image |
| 06/03/2009 | ORDER FOR PAYMENT/CLERK'S TRANSCRIPT FEE \$450.00\Cl.Reptr | \$2.00 | Image |
| 06/03/2009 | TRANSCRIPT FEE | \$450.00 | |
| 08/05/2009 | VON CLARK DAVIS' MOTION TO EXPEDITE RULING FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 08/19/2009 | <p>Issue Date: 08/19/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: ATTORNEY Cost Per: \$ 5.00</p> <p>NOWACK, SCOTT C/O OHIO STATE PENITENTIARY 878 COITSVILLE HUBBARD RD YOUNGSTOWN, OH 44505 Tracking No: C000070523</p> | \$5.00 | Image |

http://pa.builercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 20/28

3/23/2015

CourtView Justice Solutions

Tracking No: C000070524

MAUSSER, CYNTHIA
C/O OHIO PAROLE BOARD
770 WEST BROAD ST
COLUMBUS, OH 43222
Tracking No: C000070524

08/19/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY PROCESS SERVER
Sent on: 08/19/2009 11:31:20

08/19/2009 Issue Date: 08/19/2009 \$40.00 [Image](#)
Service: SUBPOENA BY CERTIFIED MAIL
Method: SERVICE BY CERTIFIED MAIL
Cost Per: \$ 8.00

SMITH, CAROLA
[REDACTED]
FOREST PARK, OH 45240
Tracking No: L000198274

STINEMAN, JEROME
[REDACTED]
CINCINNATI, OH 45208
Tracking No: L000198275

TIPTON, ALLISTER
[REDACTED]
FOREST PARK, OH 45240
Tracking No: L000198276

DAVIS, SHERRY
[REDACTED]
FOREST PARK, OH 45240
Tracking No: L000198277

ROTUNDO, RICK
[REDACTED]
LOVELAND, OH 45140
Tracking No: L000198278

08/19/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY CERTIFIED MAIL
Sent on: 08/19/2009 11:52:16

08/19/2009 Issue Date: 08/19/2009 \$4.00 [Image](#)
Service: CRIMINAL SUBPOENA BY SHERIFF
Method: SERVICE BY SHERIFF OF BUTLER COUNTY
Cost Per: \$ 2.00

DAVIS, VICTOR
[REDACTED]
HAMILTON, OH 45013
Tracking No: C000197157

DAVIS, ELLIOT BUTCH
[REDACTED]
HAMILTON, OH 45011
Tracking No: C000197158

08/19/2009 PRECIPE FILED SUBPOENA ISSUED. \$1.00 [Image](#)

SUBPOENA BY SHERIFF

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQIR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8e62rBAZ*6Xq1gEoCJQ... 21/28

3/23/2015

CourtView Justice Solutions

Sent on: 08/19/2009 12:20:07

| | | | |
|------------|--|--------|-----------------------|
| 08/19/2009 | OUT OF STATE WITNESS APPLICATION FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 08/21/2009 | STATE'S SUPPLEMENTAL DISCOVERY FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 08/26/2009 | STATE'S SUPPLEMENTAL DISCOVERY (08/26/2009) FILED Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 08/28/2009 | Issue Date: 08/28/2009 Service: SUBPOENA BY PROCESS SERVER Method: SERVICE BY PROCESS SERVER Provider: PROSECUTOR'S OFFICE Cost Per: \$ 5.00 ELIRMON, CHARLES R [REDACTED] HAMILTON, OH 45013 Tracking No: C000070886 LINK, LISA [REDACTED] CINTI, OH 45239 Tracking No: C000070887 BRANDABUR, Dr JOSEPH H BUTLER COUNTY CORONER'S OFFICE 200 N "F" STREET HAMILTON, OH 45011 Tracking No: C000070888 | \$5.00 | Image |
| 08/28/2009 | PRECIPE FILED SUBPOENA ISSUED. SUBPOENA BY PROCESS SERVER Sent on: 08/28/2009 09:04:30 | \$1.00 | Image |
| 08/28/2009 | CERTIFICATE UNDER UNIFORM ACT TO SECURE THE ATTENDANCE OF WITNESS FROM WITHOUT A STATE IN CRIMINAL PROCEEDINGS FILED | \$4.00 | Image |
| 08/31/2009 | RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 08/19/2009 Service : SUBPOENA BY CERTIFIED MAIL Served : 08/20/2009 Return : 08/31/2009 On : ROTUNDO, RICK Signed By : RICK ROTUNDO Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000198278 | \$0.00 | Image |
| 08/31/2009 | RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 08/19/2009 Service : SUBPOENA BY CERTIFIED MAIL Served : 08/20/2009 Return : 08/31/2009 On : TIPTON, ALLUSTER Signed By : ALLUSTER TIPTON Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000198276 | \$0.00 | Image |
| 08/31/2009 | RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 08/19/2009 Service : SUBPOENA BY CERTIFIED MAIL Served : 08/20/2009 | \$0.00 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 22/28

3/23/2015

CourtView Justice Solutions

Service : 08/20/2009
 Return : 08/31/2009
 On : DAVIS, SHERRY
 Signed By : SHERRY DAVIS

Reason : CERTIFIED MAIL SERVICE SUCCESSFUL
 Comment :

Tracking #: L000198277

08/31/2009 RETURN RECEIPT OF CERTIFIED MAIL OF \$0.00 [Image](#)

Method : SERVICE BY CERTIFIED MAIL
 Issued : 08/19/2009
 Service : SUBPOENA BY CERTIFIED MAIL
 Served : 08/20/2009
 Return : 08/31/2009
 On : SMITH, CAROL A
 Signed By : ALLUSTER TIPTON

Reason : CERTIFIED MAIL SERVICE SUCCESSFUL
 Comment :

Tracking #: L000198274

08/31/2009 RETURN RECEIPT OF CERTIFIED MAIL OF \$0.00 [Image](#)

Method : SERVICE BY CERTIFIED MAIL
 Issued : 08/19/2009
 Service : SUBPOENA BY CERTIFIED MAIL
 Served : 08/20/2009
 Return : 08/31/2009
 On : STINEMAN, JEROME
 Signed By : ILLEGIBLE

Reason : CERTIFIED MAIL SERVICE SUCCESSFUL
 Comment :

Tracking #: L000198275

08/31/2009 STATE'S SUPPLEMENTAL DISCOVERY (8/31/2009) FILED Attorney: OSTER Junior, \$0.00 [Image](#)
 MICHAEL A (0076491)

08/31/2009 DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED \$0.00 [Image](#)
 Attorney: COOK REICH, MELYNDA (0066596)

09/02/2009 FAILURE OF RESIDENCE SERVICE ON: \$8.00 [Image](#)

Method : SERVICE BY SHERIFF OF BUTLER COUNTY
 Issued : 08/19/2009
 Service : CRIMINAL SUBPOENA BY SHERIFF
 Served :
 Return : 09/02/2009
 On : DAVIS, ELLIOT BUTCH
 Signed By :

Reason : FAILURE OF RESIDENCE SERVICE
 Comment : BAD ADDRESS, DOES NOT EXIST

Tracking #: C000197158

09/02/2009 PROCESS SERVICE SUCCESSFUL. \$0.00 [Image](#)

Method : SERVICE BY PROCESS SERVER
 Issued : 08/28/2009
 Service : SUBPOENA BY PROCESS SERVER
 Served : 09/02/2009
 Return : 09/02/2009
 On : LINK, LISA
 Signed By :

Reason : PROCESS SERVICE SUCCESSFUL
 Comment :

Tracking #: C000070887

09/02/2009 PROCESS SERVICE SUCCESSFUL. \$0.00 [Image](#)

Method : SERVICE BY PROCESS SERVER
 Issued : 08/28/2009
 Service : SUBPOENA BY PROCESS SERVER
 Served : 09/02/2009
 Return : 09/02/2009
 On :
 Signed By :

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 23/28

3/23/2015

CourtView Justice Solutions

On : BRANDABUR, DE JOSEPH R
Signed By :

Reason : PROCESS SERVICE SUCCESSFUL
Comment :

Tracking #: C000070888

| | | | |
|------------|---|---------|-----------------------|
| 09/02/2009 | PROCESS SERVICE SUCCESSFUL. Method : SERVICE BY PROCESS SERVER Issued : 08/28/2009 Service : SUBPOENA BY PROCESS SERVER Served : 09/02/2009 Return : 09/02/2009 On : FURMON, CHARLES R Signed By : Reason : PROCESS SERVICE SUCCESSFUL Comment : Tracking #: C000070888 | \$0.00 | Image |
| 09/03/2009 | DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596) | \$0.00 | Image |
| 09/04/2009 | ENTRY GRANTING FUNDS FOR OUT OF STATE WITNESS APPEARANCE FILED | \$2.00 | Image |
| 09/04/2009 | DEFENDANT'S SUPPLEMENTAL ANSWER TO REQUEST FOR DISCOVERY FILED Attorney: COOK REICH, MELYNDA (0066596);Attorney: PORTER, RANDALL (0005835) (FAX) | \$0.00 | Image |
| 09/08/2009 | VON CLARK DAVIS EXHIBIT LIST FILED Attorney: COOK REICH, MELYNDA (0066596). Attorney: PORTER, RANDALL (0005835) | \$0.00 | Image |
| 09/09/2009 | RETURN-PERSONAL SERVICE OF DOCUMENTS UPON : Method : SERVICE BY SHERIFF OF BUTLER COUNTY Issued : 08/19/2009 Service : CRIMINAL SUBPOENA BY SHERIFF Served : 08/25/2009 Return : 09/09/2009 On : DAVIS, VICTOR Signed By : Reason : PERSONAL SERVICE SUCCESSFUL Comment : BY: KIM PREWITT #1434 (BCSO) Tracking #: C000197157 | \$7.50 | Image |
| 09/11/2009 | VERDICT FORM FILED | \$0.00 | Image |
| 09/21/2009 | JUDGMENT SENTENCING VON CLARK DAVIS TO OHIO DEPT OF CORRECTIONS REHABILITATION | \$2.00 | Image |
| 09/21/2009 | "STENOGRAPHER" (TAPE TRANSCRIPTION) FEE | \$25.00 | |
| 09/21/2009 | Taking or receiving prisoner before the judge. | \$30.00 | |
| 09/21/2009 | SENTENCING OPINION FILED | \$24.00 | Image |
| 09/22/2009 | FILING IN COURT OF APPEALS AND NOTIFICATION TO SUPREME COURT OF JUDGMENT ENTRY OF CONVICTION AND SENTENCING OPINION FILED NASTOFF, PATER,SPAETH, JUDGES | \$2.00 | Image |
| 09/23/2009 | UPS TRACKING INFORMATION; PROOF OF DELIVERY | \$0.00 | Image |
| 10/12/2009 | DEFENDANT ON PROBATION OR INCARCERATED, COSTS TO BE COLLECTED BY PROBATION. | | |
| 10/22/2009 | TRANSCRIPT REQUEST FILED | \$0.00 | Image |
| 11/02/2009 | REQUEST FOR COURT PAID EXPERTS AND/OR EXPENSES \$487.50 FILED | \$2.00 | Image |
| 01/08/2010 | APPLICATION, STATEMENT & MOTION & ENTRY/ATTY FEES \$16,519.25 & AFFIDAVIT OF INDIGENCY FILED,for atty.: MELYNDA COOK | \$2.00 | Image |
| 01/08/2010 | Indigent Application Fee (OPD-206R) ORC 120.36 | \$25.00 | |
| 01/26/2010 | DEFENDANT'S MOTION FOR APPOINTMENT AND MOTION TO ALLOW APPEARANCE | \$0.00 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 24/28

3/23/2015

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| | | | |
|--|---|--------|-----------------------|
| PRO HAC VICE FILED Attorney: KOMP, LAURENCE (0060142) (FAX) | | | |
| 01/27/2010 | REQUEST FOR COURT PAID EXPERTS AND/OR EXPENSES \$17,862.00 FILED | \$2.00 | Image |
| 02/11/2010 | ORDER GRANTS DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL AND MOTION TO ALLOW APPEARANCE PRO HAC VICE FILED (FAX) | \$2.00 | Image |
| 03/26/2010 | ENTRY DEFENDANT'S MOTION FOR THE APPROPRIATION OF FUNDS FOR A PSYCHOLOGIST(APRIL 3, 2008) BE REFILED UNDER SEAL FILED NASTOFF,J | \$2.00 | Image |
| 03/26/2010 | ENTRY DEFENDANT'S MOTION FOR THE APPROPRIATION OF FUNDS FOR A PSYCHOLOGIST(APRIL 3, 2008) BE REFILED UNDER SEAL FILED NASTOFF,J | \$2.00 | Image |
| 06/23/2010 | PRECIPE FOR DEATH WARRANT IN STATE CASE FILED Attorney: PIPER Prosecutor Butler County Ohio, ROBIN (23205) | \$0.00 | Image |
| 07/15/2010 | ENTRY ORDERING WRIT FOR EXECUTION OF DEATH PENALTY FILED | \$2.00 | Image |
| 07/20/2010 | Issue Date: 07/20/2010 Service: DEATH WARRANT Method: SERVICE BY CERTIFIED MAIL Cost Per: \$ 8.00 SUPREME COURT OF OHIO CLERKS OFFICE 65 SOUTH FRONT ST 8TH FLOOR COLUMBUS, OH 43215 Tracking No: L000226575 | \$8.00 | |
| 07/20/2010 | DEATH WARRANT ISSUED. DEATH WARRANT Sent on: 07/20/2010 11:10:09 | | Image |
| 07/21/2010 | Issue Date: 07/21/2010 Service: PERSONAL SERVICE BY SHERIFF Method: SERVICE BY SHERIFF OF BUTLER COUNTY Cost Per: \$ 2.00 SOUTHERN OHIO CORRECTIONAL FACILITY LUCASVILLE, OH 45699 Tracking No: C000216863 | \$2.00 | |
| 07/21/2010 | PERSONAL SERVICE OF WRIT: UPON: PERSONAL SERVICE BY SHERIFF Sent on: 07/21/2010 11:04:57 | \$0.00 | Image |
| 07/21/2010 | DEATH WARRANT | \$0.00 | Image |
| 07/21/2010 | Issue Date: 07/21/2010 Service: DEATH WARRANT Method: SERVICE BY CERTIFIED MAIL Cost Per: \$ 8.00 DAVIS, VON CLARK c/o ATTY: KOMP, LAURENCE ATTORNEY AT LAW PO BOX 1785 MANCHESTER, MI 63011 Tracking No: L000226665 | \$8.00 | |
| 07/21/2010 | DEATH WARRANT ISSUED. DEATH WARRANT | | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDjWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 25/28

3/23/2015

CourtView Justice Solutions

Sent on: 07/21/2010 11:44:42

| | | | |
|------------|--|---------|-----------------------|
| 07/21/2010 | Issue Date: 07/21/2010 Service: DEATH WARRANT Method: SERVICE BY INTER-OFFICE COURIER Provider: JOHNSON, CAROLYN Cost Per: \$ 5.00 BUTLER COUNTY PROSECUTORS OFFICE 315 HIGH ST, 11TH FLOOR ATTN MIKE OSTER HAMILTON, OH 45011 Tracking No: I000003538 NASTOFF Judge, ANDREW GOVERNMENT SERVICES CENTER 315 HIGH STREET 3RD FLOOR HAMILTON, OH 45011 Tracking No: I000003539 | \$10.00 | |
| 07/21/2010 | DEATH WARRANT ISSUED. DEATH WARRANT Sent on: 07/21/2010 12:12:40 | | Image |
| 07/27/2010 | RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 07/20/2010 Service : DEATH WARRANT Served : 07/23/2010 Return : 07/27/2010 On : SUPREME COURT OF OHIO Signed By : SUPREME COURT OF OHIO Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000226575 | \$0.00 | Image |
| 07/27/2010 | RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 07/21/2010 Service : DEATH WARRANT Served : 07/23/2010 Return : 07/27/2010 On : KOMP, LAURENCE Signed By : LAURENCE E KOMP Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000226665 | \$0.00 | Image |
| 08/30/2010 | PERSONAL SERVICE OF DEATH WARRANT : UPON: BUTLER COUNTY SHERIFF TO SERVE SOUTHERN OHIO CORRECTIONAL FACILITY SERVED: 8/20/10 | \$0.00 | Image |
| 09/13/2010 | ALL PAPERS SENT TO COURT OF APPEALS | \$0.00 | |
| 09/23/2010 | APPELLANT'S MOTION FOR A STAY OF EXECUTION FILED Attorney: KOMP, LAURENCE (0060142) (FAX) | \$0.00 | Image |
| 10/11/2010 | DECISION AND ENTRY DENYING DEFENDANT'S MOTION FOR A STAY OF EXECUTION FILED | \$2.00 | Image |
| 02/22/2011 | MANDATE filed, forwarded to C.A.fileroom clerk > 12thDistrict AppealsCourt CA# : CA09-10- 0263 | \$35.00 | Image |
| 10/21/2011 | DEFENDANT-PETITIONER'S MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | \$0.00 | Image |
| 10/21/2011 | DEFENDANT-PETITIONER'S MOTION FOR RECUSAL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | \$0.00 | Image |
| 10/21/2011 | NOTICE OF APPEARANCE OF COUNSEL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | \$2.00 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 26/28

3/23/2015

CourtView Justice Solutions

| | | | |
|------------|--|---------|-----------------------|
| | (0040434); Attorney: HENRY, ERIK P (0085155) | | |
| 10/21/2011 | POST-CONVICTION DEFENDANT-PETITIONER VON CLARK DAVIS' PETITION TO VACATE OR SET ASIDE SENTENCE PURSUANT TO R.C. 2953.31 FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | \$0.00 | Image |
| 10/25/2011 | STIPULATION OF EXTENSION OF TIME TO RESPOND TO PENDING MOTIONS FILED Attorney: GATTERDAM, KORT (0040434) Attorney: HENRY, ERIK P (0085155) | \$0.00 | Image |
| 11/10/2011 | STATE OF OHIO'S MEMORANDUM IN OPPOSITION TO PETITIONER'S MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY FILED Attorney: CASTER, DONALD R (0077413); Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 11/10/2011 | MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT FILED Attorney: CASTER, DONALD R (0077413) | \$0.00 | Image |
| 11/10/2011 | STATE OF OHIO'S MEMORANDUM IN OPPOSITION TO PETITIONER'S MOTION FOR RECUSAL FILED Attorney: CASTER, DONALD R (0077413); Attorney: OSTER Junior, MICHAEL A (0076491) | \$0.00 | Image |
| 11/21/2011 | POST-CONVICTION DEFENDANT-PETITIONER'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE REPLY MEMORANDUM IN SUPPORT OF POST-CONVICTION PETITION, MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY, AND MOTION FOR RECUSAL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | \$0.00 | Image |
| 11/22/2011 | ENTRY GRANTING DEFENDANT-PETITIONER'S UNOPPOSED MOTION FOR EXTENSION OF TIME FILED | \$2.00 | Image |
| 11/29/2011 | ENTRY GRANTING DEFENDANT'S-PETITIONER'S MOTION FOR EXTENSION OF TIME FILED | \$2.00 | Image |
| 12/07/2011 | DEFENDANT-PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECUSAL FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | | Image |
| 12/07/2011 | DEFENDANT-PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE OF COURT TO CONDUCT DISCOVERY FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | | Image |
| 12/07/2011 | DEFENDANT-PETITIONER VON CLARK DAVIS' MEMORANDUM IN OPPOSITION TO PLAINTIFF-RESPONDENT'S MOTION TO DISMISS OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT FILED Attorney: GATTERDAM, KORT (0040434); Attorney: HENRY, ERIK P (0085155) | \$0.00 | Image |
| 01/06/2012 | ORDER DENYING DEFENDANT'S MOTION FOR RECUSAL FILED | \$2.00 | Image |
| 01/13/2012 | DEFENDANT-PETITIONER VON CLARK DAVIS'S APPLICATION FOR DISQUALIFICATION OF BUTLER COUNTY COMMON PLEAS COURT JUDGE DANIEL ANDREW NASTOFF FILED Attorney: GATTERDAM, KORT (0040434) (FILED JAN 10, 2012 CLERK OF COURT SUPREME COURT OF OHIO CASE # 12AP004) | \$0.00 | Image |
| 01/13/2012 | AFFIDAVIT OF KORT GATTERDAM FILED | \$0.00 | Image |
| 02/22/2012 | JUDGMENT ENTRY FILED | \$10.00 | Image |
| 11/26/2012 | ENTRY AND ORDER DISMISSING PETITION FOR POSTCONVICTION RELIEF AND DENYING MOTION FOR LEAVE TO CONDUCT DISCOVERY (FINAL APPEALABLE ORDER) FILED | \$36.00 | Image |
| 12/18/2012 | NOTICE OF APPEAL CA 2012 12 0258 FILED | \$0.00 | Image |
| 07/03/2013 | Issue Date: 07/03/2013 Service: COPY BY CERTIFIED MAIL Method: SERVICE BY CERTIFIED MAIL Cost Per: \$ 8.00 SUPREME COURT OF OHIO CLERK OF COURTS STEVE KAHLER, RECORDS SPECIALIST 65 SOUTH FRONT ST 8TH FLOOR COLUMBUS, OH 43215 Tracking No: L000305186 | \$8.00 | |
| 07/03/2013 | COPY BY CERTIFIED MAIL ISSUED. COPY ISSUED BY CERTIFIED MAIL | \$0.00 | Image |

http://pa.butlercountyclerk.org/eservices/?x=2xmWzKDJWBDAGwpyunbAQevfaHQfR1afwoV21eAhofURSzSMGLUQsUdHdbiHgS8a62rBAZ*6Xq1gEoCJQ... 27/28

3/23/2015

CourtView Justice Solutions

Sent on: 07/03/2013 08:54:03.42

| | | | |
|------------|---|---------|-----------------------|
| 07/12/2013 | RETURN RECEIPT OF CERTIFIED MAIL OF Method : SERVICE BY CERTIFIED MAIL Issued : 07/03/2013 Service : COPY BY CERTIFIED MAIL Served : 07/08/2013 Return : 07/12/2013 On : SUPREME COURT OF OHIO Signed By : SUPREME COURT OF OHIO Reason : CERTIFIED MAIL SERVICE SUCCESSFUL Comment : Tracking # : L000305186 | \$0.00 | Image |
| 07/22/2013 | NOTICE- SENT FILINGS FROM 10-21-11 TO PRESENT INTEROFFICE TO COURT OF APPEALS (PER JUDY) | \$0.00 | |
| 09/09/2013 | MANDATE filed, forwarded to C.A.fileroom clerk > 12thDistrict AppealsCourt CA# : CA121-12-0258 | \$35.00 | Image |
| 07/14/2014 | JUDGMENT ENTRY FROM SUPREME COURT AFFIRMING FILED | \$2.00 | Image |

CR83 12 0614

No. 83-CRA-3rd
83-CR-A-3

THE MUNICIPAL COURT OF HAMILTON, OHIO

THE STATE OF OHIO

vs.

Von Clark Davis

Forest Park, Ohio

Witness Fees

Det. R. Wells, HPD

Anthony Gale Ferguson

Mona Aldridge

Dr. R. Burkhardt

Co. Coroner's Office

Mike Shanks, Atty.

Defendant was arrested and affidavit filed on the
12th day of December, 1983, on the oath
and complaint of Det. R. Wells, H.P.D.

charging the said defendant
Von Clark Davis

IMAGED

that he, ~~she, they~~, at the City of Hamilton, in the
County of Butler and State of Ohio, on or about the
12th day of December, 1983, did
purposely with prior calculation and design cause
the death of Suzette Butler by shooting her with a
25 caliber pistol,

Vio. Sec. 2903.01 R.C. - Chg: AGGRAVATED MURDER

and on or about the 12th day of December, 1983,

did knowingly acquire, have, carry or use a firearm
after having been convicted of a Felony of

Violence, to-wit: a .25 caliber pistol,

Vio. Sec. 2923.13 A 2 RC Chg: HAVING WEAPONS WHILE
UNDER DISABILITY

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

DEC 22 1983

EDWARD S. ROBB, JR.
CLERK

and on the 21st day of December, 1983,
defendant waived an examination / had a preliminary
hearing before the Judge of the Municipal Court of
Hamilton, Ohio, who ordered and required of said
defendant Von Clark Davis

that he, ~~she, they~~ furnish bail for his, ~~her, their~~
personal appearance at the Common Pleas Court of
Butler County, Ohio, at a proper time, there to a-
bide the judgement of the Court, and not to depart
without leave, in the sum of

NO BOND

Dollars, or stand

committed.

Dec. 21, 1983

COMMITTED

BAIL GIVEN

THE STATE OF OHIO, BUTLER COUNTY, SS.

I, Mark Conese Act/, Clerk of the
Municipal Court of Hamilton, Ohio, do hereby certify
that the foregoing is a true transcript of the pro-
ceedings had before said Court.

Given under my hand and the seal of said Court
this 21st day of December, 1983.

Mark Conese

Act/Clerk of the Municipal Court of Hamilton, Ohio

By *Thelma Goldrick*

Deputy

CR83 12 0614

STATE OF OHIO

*

Case No. 83-CRA-3539
83-CRA-3565

Plaintiff

*

IN THE HAMILTON MUNICIPAL COURT

Vs

HAMILTON, OHIO

Von Clark Davis

IMAGED

Defendant

ENTRY



☐ Upon application of the defendant and for good cause shown, the defendant shall be released upon the execution of his own personal recognizance.

☐ Upon application of the defendant and for good cause shown, the defendant shall be released upon the execution of an unsecured appearance bond in the sum of _____ dollars.

☒ Execute a bail bond in the sum of NO BOND dollars secured by real estate in the county, or the deposit of cash or the securities allowed by law in lieu thereof.

ENTER

Bert C. Imfeld

Act/ JUDGE

By: Thelma Goldrick Deputy Clerk

2

J 373 P 430

83CRA3539
No. 83CRA-3565

Crim. Doc. Page

Hamilton Municipal Court,
Hamilton, Ohio

State of Ohio
U.S.

Von Clark Davis

COST BILL
CRIMINAL CASE

Filed Dec. 31 1983

Mark Canese
Act Clerk

By Helma Goldrick
Deputy Clerk

IMAGED

83-CRA-3565 and
No. 83-CRA-3539

CRIMINAL TRANSCRIPT

TO

COURT OF COMMON PLEAS
OF BUTLER COUNTY, OHIO

THE STATE OF OHIO

vs.

Von Clark Davis

[REDACTED]

Forest Park, Ohio

Chg: HAVING WEAPONS WHILE UNDER
DISABILITY
AGGRAVATED MURDER

Bond: NO BOND

Atty: Mike Shanks

In The Court of Common Pleas of Butler County

IMAGED

State of Ohio,
Plaintiff,

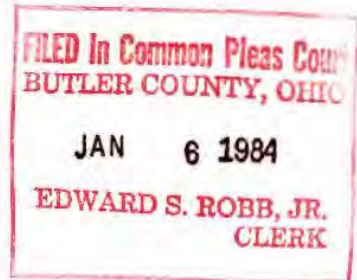
v.

VON CLARK DAVIS

Defendant.

:
: Notice to Supreme Court of
: Ohio of Filing of Indictment
: Charging Aggravated Murder
: with Specification(s) of
: Aggravating Circumstances
: (R.C. 2929.021(A))
:

Name of defendant: VON CLARK DAVIS



The court in which the case will be heard:

COURT OF COMMON PLEAS OF BUTLER COUNTY
HENRY J. BRUEWER, JUDGE PRESIDING

Case number(s):

CASE NO. CR83-12-0614

Date on which indictment was filed:

January 6, 1984

EDWARD S. ROBB, JR.

Clerk of Courts of Butler County

Date: January 6, 1984

3

Clk. 300 A

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

SUMMONS
RULE 9 (B)

IMAGED

Court of Common Pleas, BUTLER County, Ohio

THE STATE OF OHIO

vs.

Von Clark Davis
Name
Butler County Jail
Address
Hamilton, Ohio

Case No. CR 83-12-0614

SUMMONS ON INDICTMENT

Indictment

ToTHE SHERIFF OF BUTLER COUNTY.

An indictment, a copy of which is attached hereto, has been filed in the

BUTLER

County Court of Common Pleas charging

Von Clark Davis

with

Having Weapons While Under Disability Section: 2923.13(A)(2)
Aggravated Murder With SPECIFICATION I AS TO COUNT # 1 Section
SPECIFICATION II AS TO COUNT # 1 #2903.01(A)

Describe the offense and state the numerical designation of the applicable statute.

You are commanded to summon Von Clark Davis

said defendant, to appear before said court at Butler County Courthouse 3rd floor

before Hon. Wm. R. Stitsinger on January 13 19 84, at 3:30 o'clock a. m.

Said Von Clark Davis..... is hereby informed that he/she..... may be arrested if he/she..... fails to appear at the time and place stated herein.

Special instructions to executing officer:

Given under my hand and the seal of said Court, this

6 day of JANUARY A. D. 19 84

y of JANUARY A. D. 19 84
 Edward G. Holt
 Judge — Clerk — Deputy Clerk

COURT OF COMMON PLEAS

BUTLER

County, Ohio

EDM780 2 1088 16

RECEIPT OF SUMMONS BY EXECUTING AUTHORITY

First receipt:

Received this Summons on _____, 19____, at _____ o'clock _____ m.

Officer

By

Title

STATE OF OHIO : CASE NO. CR83-12-0614
Plaintiff :
VS. : STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS
Von Clark Davis : PROSECUTING ATTORNEY'S
% Butler County Jail : REQUEST FOR ISSUANCE OF
SUMMONS UPON INDICTMENT
Hamilton, Ohio

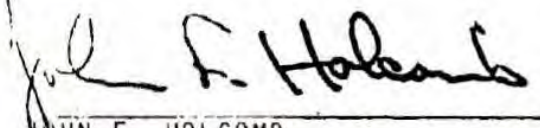
TO THE CLERK:

Von Clark Davis

Defendant has been named a defendant in an indictment filed by the Prosecuting Attorney. Issue summons to an appropriate officer and direct him to make personal service upon defendant at the address stated in the caption of this request.

SPECIAL INSTRUCTIONS FOR SERVER:

Defendant is to appear for hearing on January 13, 1983 at 9:00 a.m. before Judge William R. Stitsinger on the third floor of the Butler County Courthouse.


JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

2

SHERIFF
BUTLER COUNTY OHIO
ROBERT R. WALTON SR.

IMAGED

JAN 9 1984

EDWARD B. ROBB, JR.
CLERK

Deputy

Deputy

Fees _____ I received this summons on _____ 19____,

Service \$ _____ at _____ o'clock ____M., with instructions to make personal-residence service

Mileage _____ upon the defendant(s) _____

Total \$ _____

Date: _____ and I was unable to serve a copy of the summons upon him-them for the follow-
ing reasons: _____

By _____ Sheriff, Bailiff, Process Server

Deputy _____

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 37

INDICTMENT

Crim. Rule 6, 7

IMAGED

THE STATE OF OHIO

Butler

County, ss.

COURT OF COMMON PLEAS

Of the Term January in the year one thousand nine hundred and Eighty-four

THE JURORS OF THE GRAND JURY of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that on or about the 12th day of December 1983, at Butler County, Ohio,

VON CLARK DAVIS

did

COUNT ONE

purposely, and with prior calculation and design, cause the death of Suzette Butler, in violation of Ohio Revised Code, Title AGGRAVATED MURDER, Section 2903.01(A), and against the peace and dignity of the State of Ohio.

SPECIFICATION I. The Grand Jurors further find and specify that prior to the offense at bar in Count One of this Indictment, the said VON CLARK DAVIS was convicted of Murder in the Second Degree, contrary to Section 2901.05 of the Ohio Revised Code on April 20, 1971, in the Court of Common Pleas of Butler County, Ohio, Case No. 21655, an essential element of which was the purposeful killing of another as specified in Section 2929.04(A)(5) of the Ohio Revised Code.

SPECIFICATION II. The Grand Jurors further find and specify that VON CLARK DAVIS had a firearm on or about his person or under his control while committing the offense at bar in Count One of this Indictment, as specified in Section 2929.71 of the Ohio Revised Code.

COUNT TWO

On or about the 12th day of December, 1983, and at Butler County, Ohio, VON CLARK DAVIS did knowingly acquire, have, carry or use a firearm, to wit: a 25 caliber pistol, the said VON CLARK DAVIS having previously been convicted of felonies of violence, to wit: Shooting with Intent to Wound contrary to Section 2901.23 of the Ohio Revised Code on April 10, 1970, in Case No. 20938, Common Pleas Court of Butler County, Ohio, and Murder in the Second Degree contrary to Section 2901.05 of the Ohio Revised Code on April 20, 1971, in Case No. 21655, Common Pleas Court of Butler County, Ohio, and the said VON CLARK DAVIS was not relieved from such disability as provided in Section 2923.14 of the Ohio Revised Code, which offense is a felony of the fourth degree,

HAVING WEAPONS WHILE UNDER
in violation of the Ohio Revised Code, Title DISABILITY Section 2923.13(A)(2)
and against the peace and dignity of the State of Ohio.

JOHN F. HOLCOMB

Prosecuting Attorney

Asst. Prosecuting Attorney

*Set forth the offense in any words sufficient to give the defendant notice of all elements of the offense, or otherwise in proper form pursuant to Criminal Rule 7 (B).

IMAGED

PS Form 3811, July 1982

SENDER: Complete this section. Add your address in the "RETURN TO" space on reverse.

FILED **RECEIVED** **POSTMASTER** **CLERK** **EDWARD S. ROBB, JR.** **JAN 12 1984** **STATE OF OHIO** **COLUMBUS**

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one):

☐ Show to whom and date delivered _____ \$

☐ Show to whom, date, and address of delivery _____ \$

2. ☐ **REGISTERED MAIL** (The registered delivery fee is charged in addition to the return receipt fee.)

CR83 12 0614 not. TOTAL \$ 1.65

3. ARTICLE ADDRESSED TO:
Supreme Court of Ohio
Columbus, Ohio 43215

4. TYPE OF SERVICE: ☐ REGISTERED ☐ INSURED ☒ CERTIFIED ☐ COO ☐ EXPRESS MAIL

ARTICLE NUMBER
59956

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent
R. E. [Signature]

5. DATE OF DELIVERY _____ POSTMARK (may be on reverse also)
JAN 12 1984

6. ADDRESSEE'S ADDRESS (Only if requested)
STATE OF OHIO
COLUMBUS

7. UNABLE TO DELIVER BECAUSE: _____ EMPLOYEE'S INITIALS _____

RETURN RECEIPT

GPO: 1982-370-593

6

No. CR83-12-0614

Jan. Session Jan Term, 1984

COMMON PLEAS COURT

Butler County, O.

THE STATE OF OHIO
vs.

VON CLARK DAVIS

Indictment for

AGGRAVATED MURDER

HAVING WEAPONS WHILE UNDER DISABILITY

[Signature]
Prosecuting Attorney

A TRUE BILL

[Signature]
Foreman Grand Jury

This Bill of Indictment found upon testimony sworn and sent before the Grand Jury at the request of the Prosecuting Attorney.

[Signature]
Foreman of the Grand Jury

Filed JAN 6 1984, 19

Clerk

By EDWARD S. ROBB, JR. Deputy

CLERK

BARRETT BROTHMAN, PUBLISHER, SPRINGFIELD, OHIO

On this 14 day of

JANUARY 1984

the within named

VON CLARK DAVIS

Defendant arraigned, and pleads
NOT guilty to this indictment.

[Signature]
Clerk

By JACOB COSTA Deputy

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

JAN 13 1984

EDWARD S. ROBB, JR.
CLERK

*This signature not necessary in a FELONY, a liquor case, nor if the prosecuting witness has become security for costs.

The State of Ohio, BUTLER County.

I, the undersigned, Clerk of the Court of Common Pleas in and for said County, do hereby certify that the foregoing is a full, true and correct copy of the original indictment, with the endorsements thereon, now on file in my office.

WITNESS my hand and the seal of said Court, at HAMILTON Ohio, this JANUARY 19 84

Clerk

Deputy

[Signature]

J 374 P 209

7

BUTLER COUNTY, OHIO

FILED IN COURT: High Court
BUTLER COUNTY, OHIO

JAN 6 1984

MOTION TO SEVER

EDWARD E. ROSS, JR.
CLERK

• • • • •

1-17

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
P. O. Box 687
Hamilton, Ohio 45012
Telephone: 868-7600

Michael D. Shanks

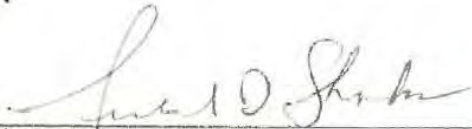
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IMAGED

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting Attorney, Butler County Courthouse, Second Floor, Hamilton, Ohio this the 16th day of January, 1984.

BY


Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

1-17-84

COURT OF COMMON PLEAS

IMAGED

BUTLER COUNTY, OHIO

STATE OF OHIO

FILED in Hamilton Place Court
BUTLER COUNTY, OHIO

CASE NO. CR83-12-0614

Plaintiff :

-vs-

JAN 17 1984

MOTION FOR BILL OF PARTICULARS

VON CLARK DAVIS

EDWARD E. ROSS, JR.
CLERK

Defendant :

: : : : : : : : : : : : : : : :

Now comes the Defendant, Von Clark Davis, by and through his attorney, Michael D. Shanks, and respectfully moves the Court for an order requiring the Prosecutor to provide him with a Bill of Particulars setting out with particularity the following:

1. Each and every action or item of specific conduct of Defendant related to or connected with the pending charges.
2. Each and every element of each offense Defendant is alleged to have committed.
3. Further Defendant specifically requests statement with particularity as to the times and places of the alleged offenses.

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
P. O. Box 687
Hamilton, Ohio 45012
Telephone: 868-7600

BY Michael D. Shanks
Michael D. Shanks

M E M O R A N D U M

Ohio Rules of Criminal Procedure, Rule 7 (F).

BY Michael D. Shanks
Michael D. Shanks

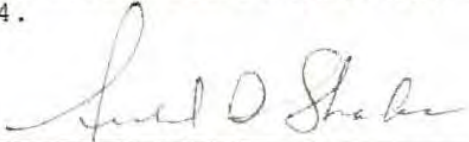
HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

9

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting Attorney, Butler County Courthouse, Second Floor, Hamilton, Ohio this the 16th day of January, 1984.

BY


Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

FILED IN SUMMITT PHOTO COURT
BUTLER COUNTY, OHIO

CASE NO. CR83-12-0614

JAN 17 1964

MOTION FOR CHANGE OF VENUE


EDWARD B. BOSS, JR.
CLERK

• • • • •

1-17

BY

Telephone: 888-7600



Michael D. Shanks

BY

Michael D. Shanks

10

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 45

DAMAGED

BUTLER COUNTY, OHIO

2

Plaintiff

FILED in ~~Common Pleas Court~~
BUTLER COUNTY, OHIO

JAN 14 1984

VON CLARK DAVIS

4

Defendant

EDWARD B. ROSS, JR.
CLERK

• • • • •

1-17

BY

Michael D. Shanks

You are hereby notified that the above-captioned Motion will be heard on February 15, 1984 at 9:00 A.m. in the Butler County Common Pleas Court, Hamilton, Ohio.

EY

Michael D. Shanks

**HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012**

I hereby certify that a copy of the foregoing Motion was forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting

Attorney, Butler County Courthouse, Second Floor, Hamilton, Ohio
this, the 17th day of January, 1984.

BY

Michael D. Shanks
Michael D. Shanks

IMAGED

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

1-17-84

COURT OF COMMON PLEAS

IMAGED

BUTLER COUNTY, OHIO

STATE OF OHIO

CASE NO. CR83-12-0614

Plaintiff

JAN 17 1984

-vs-

:

MOTION TO DISMISS AND TO

VON CLARK DAVIS

:

EDWARD A. ROBB, JR.
CLERKINSPECT GRAND JURY

Defendant

:

TRANSCRIPT

: : : : : : : : : : : : : : : :

Now comes the Defendant, Von Clark Davis, and moves this Court for an order allowing him to inspect the Grand Jury Transcript and also to dismiss both Counts in the indictment against him on the basis that there was no probable cause to return this indictment, and that the indictment was founded on illegal and incompetent evidence.

MEMORANDUM IN SUPPORT OF MOTION

The memorandum in support of this motion will be in two distinct parts. The first part will deal with whether or not defendant should be allowed to inspect the minutes of the Grand Jury, and secondly, whether an indictment may be founded wholly on incompetent testimony, illegally seized evidence, and hearsay testimony.

The defendant has moved the Court for the transcript of the Grand Jury proceedings. The defendant submits that these are important:

- A. To support his motion to dismiss, and;
- B. That the traditional rules regarding secrecy of the Grand Jury are obsolete, and are based on misconceptions

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

12

IMAGED

of the common law, and that once an indictment is returned against the defendant there is no need to maintain the secrecy of the Grand Jury.

In order to further support this motion the Defendant would briefly relate the history of the Grand Jury.

Historians say that Henry II initiated the concept of the Grand Jury in 1166 as a sword of the Crown to gather information on the citizens, not to protect them from unjust prosecution. Henry II was said to have used the Grand Jury in order to wrest the power from the English Barons. However, some time around the middle of the 14th Century the Grand Jury began to assert its independence, and serve its intended purpose of screening accusations and voting indictments. The Grand Jury met secretly, not to protect itself against the alleged defendants, or from any one that it may be investigating, but to avoid interference from the King. (See for example Stevens, A History of Criminal Law in England and also Holtzworth, A History of English Law).

Thus, while the Grand Jury at first was invoked to augment the power of the Crown by acting as a public prosecutor, which would ferret out crime, by 1368 this practice was diminishing and there emerged a new form of Grand Jury, one which adopted the custom of hiding its presence from the Crown so as to protect itself from the abuses of the Crown.

The real independence of the Grand Jury became firmly established in the famous Earl of Shaftsbury trial, 8 Howe State Trial, 759, which took place in 1681. In that case the King's counsel had insisted that the Grand Jury hear in open court

HOLBROCK, JONSON,
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ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
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IMAGED

testimony of evidence in certain treason charges brought against the Earl of Shaftsbury. Following the hearing the Grand Jurors seemed the State and the Crown, as represented by its prosecutors, were interested only in defaming and intimidating the Earl who had fallen in disfavor, demanded and were granted the right to interview witnesses in private. After hearing the witnesses in private, where they were not subject to retribution by the Crown for failing to testify properly, the Grand Jury returned a bill with the word "ignoramus" written across the front, which meant ignored. Thus, the Grand Jury exercised its conscience without interference of the Crown.

However, a second Grand Jury was then convened by the Crown in another location resulting in the indictment of the Earl of Shaftsbury who was forced to flee to Holland. The co-defendant indicted with him was convicted and executed. (See Marvin E. Frankel and Gary P. Naftalis, The Grand Jury, An Institution on Trial).

After the King's blatant disregard of the first Grand Jury certain reforms were demanded and were instituted, and from this evolved the procedure of receiving testimony in private, outside the presence of both the Prosecutor and the Defendant. This was the institution which was transplanted in America before the framing of the Constitution, in fact John Peter Zenger, a New York journalist was nearly a victim of Grand Jury abuse in 1743 when the Governor of New York attempted to have him indicted on charges of criminal liable for publishing a series of articles of which the Governor and refused to indite Zenger. This was the background

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
3155 MONUMENT AVENUE
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IMAGE

which the framers of the Constitution considered when they established the Grand Jury in the Constitution. Indeed at the time of establishing the Constituion the common law concept of of secrecy was imparted to the American system of Juris Prudence out of a need to protect the Grand Jurors and private citizens, not from Defendants who may be indicted, or from those who may be under investigation, but from the oppression of the State. The Grand Jury at that time was never intended to aid the prosecution in its discovery of facts, or to protect the prosecutor's cases from disclosure. These functions seemed to evolve later. In the 19th century, as governmental influence became less open and more subtle, a prosecutor, both here and in England, was permitted to be present during the taking of testimony in order that he might assist the jury in drawing up the form of the indictment. However, he was there merely to assist the jury and did not himself present the testimony. (See 8 Wigmore, Evidence, Section 2360). It is around this time that the four alleged reasons for Grand Jury secrecy developed. These reasons are:

1. The Grand Juries must be free from apprehension that their votes and opinions might be disclosed.
2. That witnesses and complainants summoned should be free from apprehension that their testimony may subsequently be disclosed by compulsion so that the State could secure willing witnesses.
3. That a guilty accused would not flee from arrest, suborn perjury, or tamper with the witnesses of the Grand Jury.

HOLBROCK, JONSON,
BRESSLER & HOUSER
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HOLBROCK-JONSON
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IMAGED

4. That an innocent accused who is not indicated should not be discredited in the community.

These reasons are unimportant after an indictment because first the Defendant in this case does not seek discussions, opinions and votes of the Grand Jurors. These should remain secret.

Secondly, the witnesses have already testified and can certainly have no fear that their testimony should be disclosed now since they knew or should have known at the time they testified in front of the Grand Jury that whatever they said which was detrimental to the Defendant, if he were indicted, would certainly be used against him at trial.

In addition, if there is any fear that the Defendant would intimidate any of the witnesses who appeared, the Prosecutor could certainly seek a protective order prohibiting this particular evidence from being disclosed, this reason does not call for a wholesale refusal to disclose the Grand Jury minutes.

Once the accused has been indicted, arraigned, and made bond, there is not fear that he would flee from arrest, and certainly since the Grand Jury has already heard the testimony it would be impossible for him now to suborn perjury or to tamper with the witnesses of the Grand Jury.

Finally, since the accused in this case had already been indicted, the disclosure of what transpired during the Grand Jury would not cause him to suffer any loss of standing among the community.

It is interesting to note that Rule 6 of the Federal Rules of Criminal Procedure on Grand Jury secrecy does not demand secrecy

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 667
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of the witnesses before the Grand Jury, but only prevents the Grand Jurors themselves as well as any stenographer or prosecutor who may be present from disclosing what went on before the Grand Jury. The witnesses are not sworn to secrecy, and they could disclose their testimony at any time. Also, if the witnesses are subpoenaed to appear before the Grand Jury their names would certainly appear on the record, and this in effect would tell the Defendant who the witnesses were who were testifying before the Grand Jury.

The sixth Circuit, speaking on the secrecy of the Grand Jury, has stated in Schmidt v. United States, 115 F (2d) 394, :

" . . . It is a serious thing for any man to be indicted for an infamous crime, whether innocent or guilty. He cannot escape the ignominy of the accusation, the damages of perjury and error of trial the tortuous suspense of imprisonment or the burdens of a tempting invitation to the malicious, the ambitious and the reckless to try to use it to benefit themselves and their friends, and to punish their enemies. Malicious, ambitious or over zealous men either in or out of office, may with impunity persuade grand juries, without any legal evidence, either by hearsay testimony, undue influence or worse means to indict whom they will, and there is no way in which the courts may annul such illegal accusations, the grand jury, instead of that protection of 'the citizen against the unfounded accusation, whether it comes from the government, or be prompted by partisan passion, or private enmity,' which it was primarily designed to provide, may become an engine of oppression and a mockery of justice . . ."

It should also be noted that the prosecution has no hesitancy in disclosing Grand Jury Testimony when it is necessary to impeach one of their own witnesses who deviates from the story which he told the Grand Jury.

Furthermore, under the Jencks Act, 18 US C, Section 3500,

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

the Defendant is entitled to the Grand Jury testimony of a government trial witness without any preliminary inspection for usefulness by a trial judge. (See also United States v. Ramirez, 482 F (2d) 807, 1973 CA2). However, Grand Jury proceedings were not always barred from merely the Defendant. As recent as a century ago the State as well as the Defendant was barred from invading the secrecy of the Grand Jury. In a series of cases taking place around 100 years ago the prosecutors of the federal system and various states set forth the very reasons now urged on behalf of the defendants as grounds for lifting the bar of secrecy, once the accused is in custody.

In the case of Bressler v. People, 117 Ill. 422, 8 NE 62, the Illinois Court in 1866 stated:

" . . . When the indictment is returned and the Defendant is arrested and placed upon trial, neither statutory nor common law reasons for secrecy can apply. There can be no reason then why evidence given before a grand jury should not be made known and proved at the end if justice require it. A contrary course would tend to defeat instead of promote justice, and is directly in opposition to the tendency of that principle which is to enlarge rather than to contract the source of evidence . . ."

It should be noted that this citation does not come from a case where the Defendant successfully urged the secrecy of the Grand Jury be lifted, but rather came from one in which the prosecution urged that that secrecy of the Grand Jury must be lifted so that it could further the ends of justice, and convict the Defendant.

However, in Federal Rule of Criminal Procedure 6 now allows the dissemination routinely of such information for use by the prosecutor and other government agencies seeking to further the ends of justice by convicting the defendant. What is there

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK- JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

IMAGED

inherent in the Grand Jury testimony that requires the disclosure only when it would convict the Defendant, instead of when it would help him prove his innocence? Is this the only way in which the Grand Jury testimony can further the ends of justice?

Federal Courts have long recognized that once the Grand Jury is discharged the reasons for secrecy end. Indeed the Southern District Court of Ohio held in Grand Jury Summoned October 12, 1970, 321 F. Supp. 238, that the secrecy of the Grand Jury proceedings may not be imposed upon witnesses who appear before the Grand Jury, that they may be interviewed after their appearance, and repeat what they said before the Grand Jury or otherwise relate their knowledge of the subject of the inquiry.

Indeed, Federal Courts have long held that the reason for secrecy in preventing flight of an accused ceases when an indictment is returned and the accused is arrested. (See for example RE: Report and Recommendation of June 5, 1972 Grand Jury, 370 F. Supp. 1219, 1974 District of Columbia). Likewise, prevention of perjury and the possibility importuning of perjury also end when the Grand Jury is discharged. Indeed, if there is any reason at all left for secrecy of the Grand Jury it is to protect the witness who may be testifying before the Grand Jury on the promise that his testimony will not be made public to the Defendant. If such a witness so testified before the Grand Jury the prosecution can seek a protective order which a Court can no doubt grant. However, this reason alone is no reason for wholesale secrecy of the transcripts of the Grand

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 7
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Jury.

However, one hundred years ago the Prosecutor received the benefit of using the Grand Jury testimony whenever he feels it is necessary. Some Courts are allowing the Defendants to do the same. We are thus now at the point where the prosecution may waive the secrecy of the Grand Jury when necessary, and the witness may waive the secrecy of the Grand Jury, and the only person against whom secrecy is enforced is the Defendant.

Some states have allowed the Defendant the right to use Grand Jury testimony by virtue of a statute. These states are Iowa, California, Kentucky, Minnesota and Vermont. It should be noted that there are no reports anywhere that defense counsel can find in which allowing the use of the Grand Jury testimony by these states has resulted in the death of large numbers of witnesses or Grand Jurors. In fact, it seems that this disclosure has had little effect other than to protect the rights of the defendant.

For example, California has since 1972, required that when an indictment is filed the transcript of the Grand Jury must be filed with the indictment and supplied to the defendant. The present California statute, which is California Penal Code, Section 938.01 provides in part:

". . .Where the indictment has been found on an accusation presented against the defendant, such stenographic reporter shall certify and file with the County Clerk, an original transcript of the shorthand notes, and a copy thereof, and as many additional copies as there are defendants. The County Clerk shall deliver the original of the transcript so filed with him to the district attorney immediately upon his receipt thereof, shall return one copy for use only by the judges, and proceedings relating to the indictment or accusation, and shall deliver a copy of such transcript to each defendant or his attorney . . ."

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

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Likewise, Michigan has developed a rule which requires disclosure of Grand Jury testimony prior to trial. In the case of People vs. Dunc, 201 NW (2d) 629, the Supreme Court of Michigan held:

" . . . A person accused of a crime by any Grand Jury has the right to the transcript of his testimony and such parts of the record, including the testimony of other witnesses before the Grand Jury, touching on the issue of his guilt or innocence of the crime charged, and to obtain it he must petition the Circuit Court of the county wherein the Grand Jury was impaneled"

This case was based upon Rule GCR, 1963.787, Discovery of Grand Jury Proceedings. The Rule was adopted after the Supreme Court of Michigan held in the case of People vs. Bellanca, 194 NW (2d) 863, that:

" . . . A person accused of a crime by any Grand Jury has a right to a transcript of his testimony and such parts of the record, including the testimony of the witnesses before the Grand Jury, touching on the issue of his guilt or innocence of the crime charged"

A Federal District Court in Wisconsin has a rule requiring disclosure twenty-four hours before trial of the testimony of the witnesses before the Grand Jury. (See U.S. vs. Papice 399 F. Supp. 1381 and U.S. vs. Rogers, 329 F. Supp. 327). The Court in those cases reasoned that it had the inherent discretion to do so, that fundamental fairness required such disclosure to that the defense could properly prepare the cross-examination of these witnesses and also to save the Court's time. The Court also noted that the United States Supreme Court had, in the case of U.S. v. Dennis, 384 US 855, stated:

" . . . An in camera inspection was not looked upon with favor since impeachment and trial strategy depend upon an advocate and not the Judge"

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

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In 1936, in the case of State v. Dewell, 1967 S. 687 the Supreme Court of Florida ruled that testimony of a witness before a Grand Jury was not a confidential communication, and may be disclosed to the Trial Jury when necessary, and that the Defense could impeach a state witness testifying before the Trial Jury by subpoenaing a member of the Grand Jury and showing that the testimony of the witness before the Grand Jury did not correspond with his testimony at trial. The Supreme Court further held that a Trial Court would be further compelled by a mandamus to direct a court reporter taking the notes of the testimony before the Grand Jury who had been summoned by subpoena duces tecum to deliver the transcribed testimony to defense counsel for use in cross-examination.

The Court stated:

" . . . While it is the policy of the law to require the utmost secrecy as to Grand Jury proceedings while the Grand Jury is in session, the purpose of the policy of the law is hardly accomplished after an indictment or presentment has been found and published, custody of the indicted accused had, and the Grand Jury finally discharged. The rule of secrecy concerning matters transpiring in the Grand Jury room is not designed for the protection of witnesses before the Grand Jury, but for that of the Grand Jurors, and the furtherance of public justice. A witness before the Grand Jury has no privilege of having his testimony there treated as confidential communication, but must be considered testifying before the Grand Jury under all the obligations of an oath in a judicial proceeding . . . "

In 1966 the Supreme Court of Nevada, in the case of Shelby v. The Sixth Judicial District Court, 414 P (2d) 942 held:

" . . . The secrecy provisions of the Nevada Statute were directed to Grand Jury members, rather than to witnesses appearing before the Grand Jury, and that the secrecy of the Grand Jury proceedings was not a valid reason for the denying of a pre-trial examination of the

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
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HAMILTON, OHIO 45012

transcript of the testimony after an indictment was returned and the accused is in custody, or under restraint . . ."

The Court further held that:

". . . A transcript should be made to preserve testimony and evidence presented to the Grand Jury to preserve the testimony and evidence presented to the Grand Jury and that the rule of secrecy is certainly not absolute . . ."

In that case the petitioner filed a motion in a district court to allow him to inspect the transcript of testimony of the witnesses before the Grand Jury, he advanced three reasons:

1. To determine if the requisite standard of proof had been met to justify the return of an indictment.
2. To determine if the indictment had been brought on legally admissible evidence.
3. To use the transcript for discovery and preparation for trial.

The Supreme Court of Nevada stated as to ground one:

". . . It is fundamentally unfair to require one to stand trial unless he was committed upon a criminal charge with reasonable or probable cause. No one would suggest that an accused person should be tried for a public offense if there exists no reasonable or probable cause for trial. Our constitution and statutes recognize this as a principal of fairness and provide for its protection by a writ of habeas corpus. . ."

The Court then stated that generally a preliminary hearing is used to determine whether or not there was probable cause but where a Grand Jury presentment and indictment were made, without a preliminary hearing, the burden was on the prosecution to show that reasonable and probable cause to hold the accused for trial existed, and that this showing required a transcript of the testimony of the witnesses, and that if such showing could not

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
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be made a writ of habeas corpus should legally be granted. The Court then reviewed the reasons for secrecy of the Grand Jury and stated that once an indictment is returned there was no further need for secrecy. The Court stated:

" . . . It seems to us that secrecy is not a valid reason for denying a pre-trial examination of the transcript of the testimony, after the indictment is returned and the accused is in custody or under restraint . . . "

The Court then noted that this was the rule in many other jurisdictions stating:

" . . . California, Kentucky, Minnesota, Florida and New York to a limited degree allow such pre-trial examinations by statute. Other states have done so by judicial decision . . . "

In the same year, after the Nevada Supreme Court made this decision, the United States Supreme Court decided the case of Dennis v. The United States, 384 US 855. In this case the United States decided that the defendants were allowed to obtain statements made by the complaining witnesses at the Grand Jury since the Grand Jury testimony was about seven years fresher than would be the trial testimony, that the government conceded that the importance of preserving the secrecy of the Grand Jury, even if it was minimal, that the trial testimony concerning details of alleged conversations by the defendants, which was largely uncorroborated, and that the witnesses were hostile to the Defendant, the Court in commenting on the secrecy of the Grand Jury stated:

" . . . In the American adversary system for determining guilt of innocence it is rarely justifiable for the prosecution to have exclusive access to a storehouse of relevant fact, and exceptions to this are justifiable only by the clearest and most compelling considerations . . . "

The Court then stated that this should not be done merely as an in

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
312 S. MONUMENT AVENUE
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camera inspection by the Court of the witnesses' testimony since:

" . . . In determining whether to allow the defense in a criminal prosecution to examine the Grand Jury testimony of government witnesses a trial judge should not be burden with the task or the responsibility of examining sometimes voluminous Grand Jury testimony in order to ascertain inconsistencies of the trial testimony . . . "

It should be noted that Congress has provided for the release of Grand Jury testimony of those witnesses who testified at the trial in the Jenks Act quoted above. While the Court in Dennis did not go so far to say that in every case the defendant should be supplied with Grand Jury testimony that questions was not presented to the Court. However, the statements made by the Supreme Court indicated that a broadening of the use of the Grand Jury transcripts was necessary, and that the principle of secrecy was outmoded and outdated.

The Supreme Court in that case also noted that the Second Judicial Circuit had allowed full discovery of Grand Jury testimony. (See United States v. Hernandez, 290 F (2d) 86, and United States v. Giampa, 290 F (2d) 83).

A year later in U.S. v. Youngblood, 379 F (2d) 365, the Second Circuit held that the government would be required to turn over all Grand Jury transcripts of all witnesses who would testify concerning material relevant to trial. The Court noted that the transcripts were regularly taken stenographically and that there was not good reason to deny them to the defendant for his use.

In the case of Arizona v. McCormic, 448 P (2d) 74, the Supreme Court of Arizona, en banc, decided a case wherein a petitioner had asked for the minutes of the Grand Jury including the empanelment and examination of the qualifications so that he might file a

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
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motion to quash. The trial court refused such inspection and the defendant went to trial and was convicted. The Court of Appeals affirmed stating that the petitioner showed no defect in the empanelment and the Supreme Court rejected this argument stating that the trial court's denying the petition his motion to investigate the impanelment of the Grand Jury made it impossible for the petitioner to comply with the Court's requirements that he produce evidence to support his motion to quash. The Court stated:

". . .Criminal defendants should be given the right to investigate the regularity of Grand Jury proceedings . . ."

The Court therefore held that the petitioner when filing a motion to quash should be able to see the Grand Jury minutes so that he would know whether or not he had grounds to quash.

In the case of United States v. Hughes, 413 F (2d) 1244, the United States Court of Appeals for the Fifth Circuit, in ruling upon a motion for discovery brought to it by mandamus to compel discovery, held:

". . . Grand Jury transcripts are documents within the discovery rule permitting the Court to allow the Defendant to inspect and copy books, papers, documents, tangible objects, building or places . . ."

In this case the defendant sought discovery of the Grand Jury transcripts under Federal Rule of Criminal Procedure 16 (B). The government opposed that demand and the Court of Appeals held that the Grand Jury transcripts were documents, and that the Court should order the prosecution to allow such discovery. The government argued that there was no showing of a particularized need. However, the Court stated that Rule 16 (B) made no mention of a

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S MONUMENT AVENUE
P. O. 587
HAMILTON, OHIO 45012

particularized need and that:

" . . . Access to Grand Jury transcripts, like all discovery in criminal cases traditionally has been restricted, but there has been a growing tendency to limit secrecy after the Grand Jury has completed its work to those cases where secrecy serves legitimate policy considerations . . ."

The Court then continued:

" . . . Factors arguing for secrecy do not necessitate the restrictive construction of Rule 16 (B) urged by the government. The prevention of the accused's arrest is not consideration for the pre-trial discovery stage protection of individuals not indicted is only a limited problem at pre-trial. If no indictment is returned there is no disclosure necessary, and if some persons are indicted and some are not, testimony concerning the persons not indicted can be deleted, if not material to preparation of the defense. The dangers arising from possible intimidation of witnesses have been discussed in an earlier section of this opinion. Discovery need not compromise a Grand Jury's deliberative proceedings since deliberations and notes of the Grand Jury, as opposed to testimony, may not be material, and if material, may be subject to protective orders where appropriate. . ."

The Court concluded by stating:

" . . . In circumstances where nondisclosure serves legitimate ends, the judge is allowed under Rule 16 (B) to deny, restrict or defer discovery, and the government is permitted to seek appropriate restrictive orders, and only where secrecy does not serve legitimate overriding purposes is discovery of the Grand Jury transcript mandated by these rules. Moreover in cases where disclosure of the Grand Jury transcripts to the defendant is appropriate discovery need not be a one way street. Rule 16 (C) authorizes the Court to condition its discovery order in favor of the defendant on the defendant's allowing the government access to items material to the preparation of the government's case . . ."

Likewise in the case of Antrobus v. Indiana, 254 NE (2d)

873, the Supreme Court of Indiana stated that pre-trial statements, including the Grand Jury statements made by a prosecution witness

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 697
HAMILTON, OHIO 45012

to the police are discoverable, and should be turned over directly to the defendant, unless the state alleges and proves that there are no such statements under their control, or that there is a necessity of keeping the contents of the statement confidential.

In Parlapiano v. The District Court, 491 P (2d) 965, the Supreme Court of Colorado, en banc, held:

" . . . Unless the people show otherwise a Grand Jury testimony of a person who will testify at trial is presumed to be material for the preparation of the defense, and a request therefore is presumed to be reasonable"

In commenting on the secrecy of the Grand Jury the Colorado Supreme Court stated:

" . . . Secrecy for secrecy's sake, should no longer be the rule in Colorado. Rather than maintenance of the law, secrecy around the Grand Jury testimony should be grounded upon a sound reason"

The Supreme Court in Colorado further stated:

" . . . In order that the defense counsel may properly prepare the defense they should have somewhat in advance of trial the Grand Jury testimony of all those witnesses who will be called to testify, and in the instant case we order that the people, not later than three (3) days prior to trial, furnish for inspection by defense counsel, the transcript of the Grand Jury testimony of any witness who would be called at trial. . . ."

The Supreme Court of Colorado in this case also noted that Michigan was a leader in this field and quoted from the case of People v. Wimberly, 197 NW (2d) 623, in which the Michigan Supreme Court had referred to the defendant's assault on the bastion of the Grand Jury storehouse and stated:

" . . . We hold today that the burden should properly be on the prosecutor to defend the storehouse, and not upon the prosecutor to assault it"

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

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The Supreme Court of Colorado thus held that there was no proper reason to withhold Grand Jury testimony from the Defendant.

Finally, in the case of The Commonwealth v. Stewart 309 NE (2d) 470, the Supreme Judicial Court of Massachusetts held that the defendant would no longer be required to show a particularized need in order to gain access to the testimonies of the witnesses before the Grand Jury which indicted him, but that such testimony would be provided as a matter of routine, except where protective orders were required.

The Court noted that many federal circuits had done away with the requirement of showing a particularized need, and that the rule requiring secrecy was timeworn and ridiculous. The Court noted that the only reason for secrecy was to keep the testimony from the Defendant so that he could not use it to prepare for trial, and thus the government should be required to show a need for keeping it secret, rather than the defendant show a particularized need for this testimony.

Thus, the defendant submits that the testimony before the Grand Jury should always be made available to him, and that he is entitled to have such testimony to support his motion to dismiss the indictment.

The defendant's attorney was informed by the assistant US Attorney that the Grand Jury transcript was indeed transcribed, and that the indictment was based upon hearsay testimony by agents of the US Government. The defendant submits that he should be allowed to inspect this to determine if there is reason to move for the dismissal of the indictment.

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 587
HAMILTON, OHIO 45012

As was noted by the Supreme Court of Arizona and the Supreme Court of Nevada it makes no sense to tell a defendant that he must establish that the indictment is invalid, and then deny him the right to see the transcript of the Grand Jury so that he may establish this, and that furthermore if an indictment is not founded upon legitimate evidence and probable cause, the indictment is invalid. Here the defendant submits that the testimony before the Grand Jury was incompetent and that illegally seized evidence was used in order to obtain an indictment. This will be more particularly shown at the hearing on the motion to suppress.

In addition, the Defendant would ask the Court to consider this motion in conjunction with the motion he is filing asking for additional discovery of what the prosecutor has told the Grand Jury, and whether or not the indictment is that of the prosecutor, or of the Grand Jury.

Some Courts have held that an indictment based upon hearsay without any other competent evidence is invalid. (See for example Donghaw v. The Superior Court of Sacramento County, 183 P (2d) 724), wherein the California Court of Appeals held that where the transcript of proceedings for the Grand Jury failed to disclose that any legal evidence had been admitted to support the indictment, the indictment was invalid.

Likewise, See People v. Pyars, 10 Cal. Rep. 677, Shelby v. Sixth Judicial District Court 418 P (2d) 132, and Robertson v. State 445 P(2d) 352, where the Nevada Supreme Court has held that an indictment must be grounded on legally sufficient evidence. The New York Courts have long held that an indictment returned which

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

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was based on hearsay should be dismissed as not supporting the probable cause. (See for example People v. Jackson, 277 NYS(2d) 263, 233 NE(2d) 790, and also State v. Thompson, 273 Minn. (1) 139, NW(2d) 490). In addition the Second Circuit in the United States v. Estepa, 471 F(2d) 1132 has held that an indictment based on hearsay evidence was invalid where the Grand Jury was not informed that the police officer's testimony was hearsay. (See also State v. Gieffels, 554 P(2d) 460 where the Alaska Court held that an indictment was properly dismissed even though some nonhearsay evidence was presented, where the overwhelming amount of evidence used to obtain the indictment was hearsay).

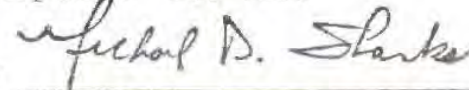
Thus, as the Court can see other jurisdictions have found that an indictment based solely on hearsay does not support probable cause. The defendant submits at any rate that besides the use of hearsay, and besides the use of illegally seized evidence to obtain an indictment, the indictment itself is not based upon probable cause and there was insufficient evidence to find probable cause.

Therefore, the defendant submits that he should be permitted to inspect the Grand Jury transcripts to more particularize these allegations and that after such inspection the Court should dismiss the indictment against him.

Respectfully submitted,

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
P. O. Box 687
Hamilton, Ohio 45012
Telephone: 868-7600

BY


Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting Attorney, Butler County Courthouse, Second Floor, Hamilton, Ohio this the 17th day of January, 1984.

BY Michael D. Shanks
Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. 687
HAMILTON, OHIO 45012

STATE OF OHIO : CASE NO. CR83-12-0614
Plaintiff :
vs :
VON CLARK DAVIS :
Defendant :
EDWARD S. ROBB, JR.
CLERK

JAN 20 1984

Butler County, Ohio
STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS
MEMORANDUM IN OPPOSITION TO
MOTION TO SEVER COUNTS

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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Two or more offenses may be charged in the same indictment . . . in a separate count for each offense if the offenses charged . . . are based on the same act or transaction, or are based on two or more acts or transactions connected together or constituting parts of a common scheme or plan, or are part of a course of criminal conduct.

158-02-1

Where there is an original joinder of two counts in one indictment, a defendant must bear the burden of affirmatively showing prejudice and abuse of discretion when claiming under Criminal Rule 14 that separate trials of multiple charges should be allowed. State v. Roberts (1980), 62 Ohio St. 2d 170, 175, 405 NE 2d 247; State v. Torres (1981), 66 Ohio St. 2d 340, 421 NE 2d 1288, syllabus. The trial court has discretion in ruling on a motion to sever counts; joinder and the avoidance of multiple trials is favored for many reasons, among which are conserving time and expense, diminishing the inconvenience to witnesses and minimizing the possibility of incongruous results in successive trials before different juries. State v. Torres, id.

In both Roberts and Torres, the Supreme Court rejected the defendants assertions that prejudice was established by the "sheer weight" of the cumulation of the evidence of multiple charges presented in a single trial. The Court found no merit to this claim because it believed the jury capable of segregating the proof on each charge where the nature of the state's case is

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direct, uncomplicated and substantial.

In the case at bar, the 1971 second-degree murder conviction of Davis, his disability in Count Two, is also a specification to Count One; his acquiring, having, carrying and using the firearm charged in Count Two was also part of the surrounding circumstances in the aggravated murder charge.

Since the prior conviction is an element in both Count One and Count Two, and it is necessary to charge and prove such prior offense as a matter of law, it is within the jury's power to hear and receive evidence of the prior conviction and to weigh the same in one-stage trial. State v. Gordon (1971), 28 Ohio St. 2d 45, 276 NE 2d 243. The instant statutes, which make proof of a prior conviction an element of the current offenses, do not operate to deny an accused a fair trial and have been held constitutional. State v. Green (1981), 2 Ohio App. 3d 38, 440 NE 2d 615; see Spencer v. Texas (1967) 385 U.S. 554 at pages 565-566 (holding that the Due Process Clause did not prevent a state from enacting such a scheme for dealing with habitual offenders or from admitting evidence of prior convictions during the trial).

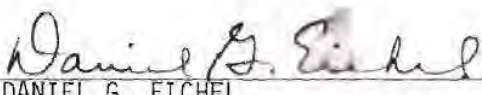
The Court of Appeals of Butler County has recently held that joinder of offenses and denial of a motion for separate trials was proper since each offense was admissible in prosecution of the other. State v. Pohlable (12th Dist. August 31, 1983), Butler Co. App. No. CA82-09-0094, unreported, at pages 4-6.

The motion to sever Counts One and Two of the Indictment should be denied.

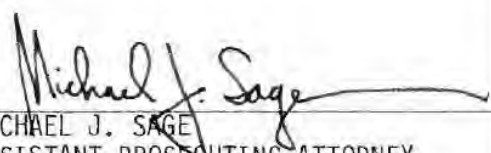
Respectfully submitted,

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone: (513) 867-5722

BY


DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

AND

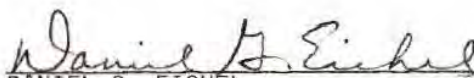

MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
310 RENTSCHLER BLDG.
HAMILTON, OHIO 45011
867-5722

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Memorandum in Opposition to Motion to Sever Counts was mailed by U.S. ordinary mail to Michael D. Shanks, Attorney for Defendant, 315 South Monument Avenue, Hamilton, Ohio, 45011, this 20 day of January, 1984.


DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
310 RENTSCHLER BLDG.
HAMILTON, OHIO 45011
867-5722

1-20-84

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STATE OF OHIO : CASE NO. CR83-12-0614

Plaintiff : STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS

VS

VON CLARK DAVIS

12th Common Pleas Court
BUTLER COUNTY, OHIO

Defendant

MEMORANDUM IN OPPOSITION TO
MOTION TO DISMISS AND TO
INSPECT GRAND JURY
TRANSCRIPT

JAN 20 1984

: : : EDWARD S. ROBB, JR. : : : : :
: : : CLERK : : : : :

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to defendant's two-part motion to dismiss the indictment and/or inspect the grand jury proceedings, says as follows:

FACTS:

Contrary to defendant's implications (at page 12 of his memorandum), the record reflects that a preliminary hearing was conducted in this case on December 21st, 1983. (Transcript of Hamilton Municipal Court.)

Further, defendant falsely alleges, in his memorandum at page 18, that

"The defendant's attorney was informed by the assistant US Attorney that the Grand Jury transcript was indeed transcribed, and that the indictment was based upon hearsay testimony by agents of the US Government." (Sic.)

To the contrary, the case at bar involves neither the U.S. Attorney's Office nor agents of the U.S. Government; nor for that matter was any hearsay evidence involved. Defense counsel would do well to edit his boilerplate motions before filing them.

ARGUMENT:

I. THE MOTION TO DISMISS THE INDICTMENT IS NOT A PROPER REMEDY AND DOES NOT LIE.

It is well-settled that "the validity of an indictment is not affected by the character of the evidence considered. Thus, an indictment valid on its face is not subject to challenge on the ground that the grand jury acted on the basis of inadequate or incompetent evidence." United States v. Calandra (1974), 414 U.S. 338, 344-345, (holding that the exclusionary rule on illegally obtained evidence is not applicable to grand jury proceedings). See also Costello v. United States (1956), 350 U.S. 359 (holding that an indictment is not subject to challenge on the ground that hearsay evidence was presented to the grand jury), and Holt v. United States (1910), 218 U.S. 245 (denying the right to challenge an indictment on the ground that evidence before the grand jury was insufficient).

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
310 RENTSCHLER BLDG.
HAMILTON, OHIO 45011
867-5722

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The Supreme Court reasoned in the Costello decision:

[I]n this country as in England of old the grand jury has convened as a body of laymen, free from technical rules, acting in secret, pledged to indict no one because of prejudice and to free no one because of special favor. . . .

. . . If indictments were to be held open to challenge on the ground that there was inadequate or incompetent evidence before the grand jury, the resulting delay would be great indeed. The result of such a rule would be that before trial on the merits a defendant could always insist on a kind of preliminary trial to determine the competency and adequacy of the evidence before the grand jury. This is not required by the Fifth Amendment. . . .

. . . No persuasive reasons are advanced for establishing such a rule. It would run counter to the whole history of the grand jury institution, in which laymen conduct their inquiries unfettered by technical rules. Neither justice nor the concept of a fair trial requires such a change.

350 U.S. at pages 362-364.

Thus, even if the defendant's bold assertions of "hearsay" and "illegally seized evidence" before the grand jury were fact, (which is certainly not the case), there is no basis for his motion to probe underneath an indictment valid on its face.

II. GRAND JURY PROCEEDINGS ARE NOT SUBJECT TO DISCLOSURE IN THE CASE AT BAR.

A defendant is not generally entitled to inspect the grand jury proceedings. State v. Laskey (1970), 21 Ohio St. 2d 187, 191. Only upon a showing of "particularized need" for such inspection or "upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury," Criminal Rule 6(E), may the trial court permit such inspection.

The only such grounds for a motion to dismiss the indictment are set forth in Criminal Rule 6(B)(2), being objections to the array or lack of legal qualification of an individual juror. Neither are alleged in defendant's motion. A motion to dismiss on the alleged grounds of hearsay, illegally obtained evidence or lack of sufficient evidence does not lie. United States v. Calandra (1974), 414 U.S. 338, and Costello v. United States (1956), 350 U.S. 359.

Ohio case law indicates that disclosure of grand jury testimony, other than that of a defendant or codefendant under Criminal Rule 16(B) discovery provisions, is not required but is strictly controlled under Criminal Rule 6(E), and the release of any such testimony for use prior to or during

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trial is within the discretion of the trial court. State v. Greer (1981), 66 Ohio St. 2d 139, syllabus paragraph one. Grand jury proceedings are secret, and an accused is not entitled to inspection except upon a showing by the defense that a particularized need for disclosure exists which outweighs the need for secrecy. Id., syllabus paragraph two.

A mere statement that the grand jury transcript may be "material to the defense," or an allegation of "possible defects" in proceedings before the grand jury, is not sufficient for a defendant to obtain the grand jury minutes; unless an accused presents specific reasons for suspecting errors in the grand jury proceedings, and thus demonstrates a particularized need, his motion should be denied. State v. Cooper (1977), 52 Ohio St. 2d 163; State v. Morris (1975), 42 Ohio St. 2d 307.

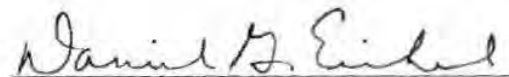
CONCLUSION:

For lack of merit, the defendant's motions to dismiss and for inspection of grand jury proceedings should be overruled.

Respectfully submitted,

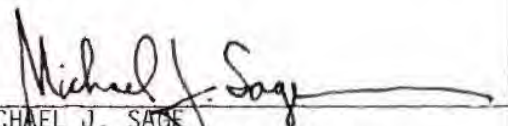
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone: (513) 867-5722

BY



DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

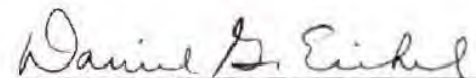
AND BY



MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Memorandum in Opposition to Motion to Dismiss and to Inspect Grand Jury Transcript was mailed by U.S. ordinary mail to Michael D. Shanks, Attorney for Defendant, 315 South Monument Avenue, Hamilton, Ohio, 45011, this 20th day of January, 1984.



DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
310 RENTSCHLER BLDG.
HAMILTON, OHIO 45011
867-5722

STATE OF OHIO

Plaintiff

CASE NO. CR83-12-0614

IN THE COURT OF COMMON PLEAS
STATE OF OHIO, BUTLER COUNTY

vs.

VON CLARK DAVIS

Defendant

MEMORANDUM IN OPPOSITION
TO MOTION FOR CHANGE OF VENUE

:

Now comes John F. Holcomb, Prosecuting Attorney, and in opposition to defendant's motion for a change of venue, respectfully moves this court to defer ruling upon such motion until such time as an effort has been made to select a jury from Butler County, Ohio, wherein venue properly lies.

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

BY

Daniel G. Eichel
DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone (513) 867-5722

and

Michael J. Sage
MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

MEMORANDUM

The evidence on defendant's motion for change of venue will show only the fairest of news journalism by the press, and only a few news articles, which, of course, the court will instruct the jury to disregard (if indeed any juror had seen such articles). Such evidence cannot sustain a change of venue.

Venue is solely statutory in Ohio. State v. McGehan, 27 Ohio St. 280 (1875). Revised Code Section 2901.12(A) provides,

The trial of a criminal case in this state shall be held in a court having jurisdiction of the subject matter, and in the territory of which the offense or any element thereof was committed.

Thus, the statute mandates trial of this cause in Butler County, Ohio.

The power of the court to order a change of venue is not of common law origin, but is also solely statutory. State v. Johnson, 31 Ohio St. 2d 106, 285

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

NE 2d 751 (1972); McGehan, id. Revised Code Section 2901.12(I) provides that

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[V]enue may be changed upon motion . . .
 when it appears that a fair and impartial
 trial cannot be held in the jurisdiction
 in which trial would otherwise be held

Ohio Criminal Rule 18(B) makes similar provision, with virtually identical language.

Numerous cases construing the import of this statute and rule agree that a change of venue should be granted only upon clear and satisfactory proof that fair and impartial justice cannot be obtained in the county in which the action is commenced; and in this regard, the judge must assess the effectiveness of procedural safeguards which may be employed at the trial, and the prospect of obtaining jurors who are fair, impartial and not prejudiced.

Especially with regard to the last, the Supreme Court has held that an examination of the jurors on their voir dire affords the best test as to whether prejudice exists within the community against the defendant, and where it appears that the prospective jurors have no fixed opinion as the guilt of the accused but would decide the matter solely on the evidence and the law as given by the court, it is not error to overrule a motion for change of venue. State v. Johnson, id., at 385 NE 2d 758.

Following this "best test," it was held in Johnson that introduction by the defense of some evidence, including one newspaper article, did not establish a prima facie case for change of venue, and the prosecution need not refute such evidence which the court may find insufficient on the issue and overrule the motion. Also, in State v. Laskey, 13 Ohio App. 2d 91, 234 NE 2d 318 (1st Dist. 1968), affirmed, 21 Ohio St. 2d 187, 257 NE 2d 65 (1970), the Court of Appeals for Hamilton County reasoned in a notorious Cincinnati rape-murder case that newspaper accounts concerning the character of the defendant and the alleged crime were not in themselves sufficient to warrant a change of venue, where from the voir dire of the jury, the sole juror who had read such articles could truthfully say that he would decide the case solely on the evidence and the law. Finally, in State v. Fairbanks, 32 Ohio St. 2d 34, 289 NE 2d 352 (1972), it was held that a motion for a change of venue was properly denied where newspaper articles and radio broadcasts were non-inflammatory and without distortion, and it was not apparent to the court that such news coverage gave use to a reasonable likelihood that defendant could not get a fair and impartial trial, especially where all veniremen disclaimed knowledge of the news release or affirmed at voir dire to decide the case solely on the evidence and

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the law.

The state of Michigan also has adopted a rule under its change of venue statutes that it is proper for the trial court to defer determination of such issue, in a murder case, until an attempt has been made to select a jury in the county where the crime was committed. People v. Collins, 43 Mich. App. 259, 204 NW 2d 290 (1972), leave to appeal denied, 391 Mich. 798 (1973), cert. denied, 419 U.S. 866 (1974). Such rule was specifically found to be in accord with due process in the subsequent habeas corpus proceeding, Collins v. Egeler, 539 F. 2d 597 (6th Cir. 1976), cert. denied, 429 U.S. 889 (1976). In the latter decision the court noted that in the Collins case, which involved massive publicity in a series of seven uniquely similar rape-murders of co-eds in the Ann Arbor area, a sharp decline in news coverage took place in the eight months proceeding the trial of the accused, and that on the whole, the publicity was not hostile or bitterly massed against the accused. In view of such findings, and satisfactory voir dire of a jury, refusal to grant a change of venue was not a violation of due process.

Along identical reasoning is Murphy v. Florida, 421 U.S. 794 (1975); the totality of the circumstances was held not to disclose any inherent prejudice in the trial setting or actual prejudice in jury selection, where a nationally-known criminal figure whose trial took place seven months after heavy publicity about his most recent escapade was not denied fundamental fairness by jurors who, in the course of selection process whereby 78 veniremen were examined and 70 excused, indicated awareness of Murphy's past exploits but affirmed that they would be impartial and denied any relevance of the past events to the case before them.

In particular, the case of Sheppard v. Maxwell, 384 U.S. 333 (1966) was distinguished in Murphy and is not applicable to the case now before the court. In Sheppard, it is important to note that the circumstances of the trial itself were responsible for the conclusion that a fair trial was denied. The Sheppard case involved scathingly prejudicial pretrial press, particularly the local Cleveland newspapers, and the utter failure of the trial court to sequester the jury or curtail prejudicial news comment during the trial, in spite of what the Supreme Court found to be "inherently prejudicial publicity which saturated the community" and "disruptive influences in the courtroom" which denied Sheppard due process. However, the Supreme Court did not dictate a change of venue in all such cases, but advised,

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY
COURTHOUSE
P. O. BOX 315
HAMILTON, OHIO 45012

Page 4

Of course, there is nothing that proscribes the press from reporting events that transpire in the courtroom. But where there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, the judge should continue the case until the threat abates, or transfer it to another county not so permeated with publicity. 384 U.S. at 362-363 (Emphasis supplied).

IMAGED

In the present case, no continuance is necessary due to the several-week time lapse which abates any effect the previous news coverage may have had. It is therefore proper in this cause to defer a ruling until an attempt is made to select a jury, and satisfaction of the court as to the qualifications of such prospective jurors.

Respectfully submitted,

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

BY Daniel G. Eichel
DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone (513) 867-5722

and

Michael J. Sage
MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

PROOF OF SERVICE

This is to certify that a copy of the foregoing Memorandum, was mailed by U.S. ordinary mail to Michael D. Shanks, Attorney for Defendant, 315 South Monument Avenue, Hamilton, Ohio 45011, this 20 day of January, 1984.

Daniel G. Eichel
DANIEL G. EICHEL
FIRST ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

1-28-84

IMAGED

STATE OF OHIO : CASE NO. CR83-12-0614
Plaintiff : STATE OF OHIO
VS : COUNTY OF BUTLER
VON CLARK DAVIS : COURT OF COMMON PLEAS
Defendant : ENTRY SCHEDULING PRETRIAL
HEARING AND CONTINUING
TRIAL DATE
JAN 8 6 1984

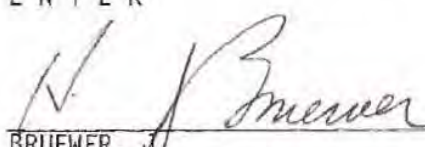
EDWARD S. ROBB, JR.

It appearing to the Court that the defendant has filed pretrial motions herein, the nature of which require the Court to decide such motions sufficiently in advance of trial, it is therefore

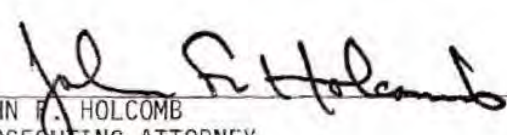
ORDERED that the defendant's pre-trial motions for a change of venue, for dismissal or inspection of grand jury transcript, and for severance of Counts One and Two, shall be heard on the date previously scheduled for trial, on February 15, 1984 at 9:00 a.m.

IT IS, FURTHER ORDERED that the previously scheduled trial date of February 15, 1984 shall be vacated, and that the trial date shall be continued and rescheduled after the defendant's pretrial motions are determined.

ENTER


BRUEWER, J.

APPROVED:


JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
310 RENTSCHLER BLDG.
HAMILTON, OHIO 45011
867-5722

16

J 374 P 761

1-25-84
8:45 AM

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

IMAGED

STATE OF OHIO

* Case Number CR83-12-0614

Plaintiff,

★

VS.

★

MEMORANDUM IN SUPPORT
OF MOTION TO SEVER

★

VON CLARK DAVIS

*

Defendant.

*

★

IN SENATE
JANUARY 11, 1910

JAN 30 1984

EDWARD S. ROBB, JR.
CLERK

Defendant, through his attorney and pursuant to Criminal Rule 14 of Ohio Rules of Criminal Procedure, has filed a Motion to sever Count One in the indictment found in the present case from Count Two in the indictment filed in the present case and to have separate trials as to each count. Rule 8(A) of the Ohio Rules of Criminal Procedure allows the prosecution to charge a defendant with more than one offense in the same indictment. However, Rule 14 specifically provides that, "if it appears that a defendant or the State is prejudiced by a joinder of offenses...in the indictment... the Court shall order...separate trials of Counts...or provide such other relief as justice requires". (Emphasis added). It should be also noted that Rule 14 is specifically titled "Relief from Prejudicial Joinder". Thus, the thrust of Criminal Rule 14 is to provide relief to a

(1)

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P O BOX 687
HAMILTON, OHIO 45012

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 80

IMAGED

defendant when a trial on multiple counts in an indictment would result in prejudice to that individual. In the present matter, Von Davis is charged with aggravated murder. As the Court is well aware, Count Two of that indictment charges Von Davis with possessing a weapon under disability, the disability being a previous conviction for second-degree murder. As a result, at trial the prosecution would be required to introduce evidence of a prior murder conviction of Mr. Davis in order to prove the allegations of Count Two of the indictment. The jury would then be, presumably, instructed to "ignore the prior murder conviction as it applies to the present allegations of aggravated murder, but to consider the prior convictions solely for the purposes of satisfying a necessary element for the possession of weapons under disability." It is strongly urged on behalf of defendant that no curative instruction can be given to a jury which would sufficiently protect Mr. Davis' constitutional guarantees that the allegations contained in Count One of the indictment will be fairly tried only on the facts in the present case.

Moreover, Counts One and Two in the indictment are not closely allied in either time or place as to require a joint trial. The allegations contained in Count Two, possessing a weapon under disability, require testimony and evidence totally separate, apart, and unrelated in time and place as compared to the allegations of aggravated murder contained in Count One. Thus, when taking into consideration the extremely prejudicial

(2)

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
115 S. MONUMENT AVENUE
P.O. BOX 1687
HAMILTON, OHIO 45012

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effect imparted upon the jury by knowledge of a prior conviction for murder, justice requires relief from what is clearly "prejudicial" joinder as to this indictment. (State vs. Atkinson, 4 Ohio St. 2d 19, 33 Ohio Op. 2d 226 (1965)).

Respectfully submitted

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
Hamilton, Ohio 45011
Telephone: (513) 868-7600

By: 

Michael D. Shanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was forwarded by ordinary U.S. Mail Service to Mr. John Holcomb, Butler County Prosecutor, Butler County Courthouse, Hamilton, Ohio this 25th day of January, 1984.

By: 

Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

(3)

1-26-84
8:45AM

COURT OF COMMON PLEAS

IMAGED

BUTLER COUNTY, OHIO

STATE OF OHIO

*

Case Number CR83-12-0614

Plaintiff,

*

vs.

*

MEMORANDUM IN SUPPORT OF

Butler County Court MOTION FOR CHANGE OF VENUE
BUTLER COUNTY, OHIO

VON CLARK DAVIS

*

Defendant.

JAN 28 1984

EDWARD E. ROBB, JR.
CLERK

Defendant, Von Clark Davis, by and through his attorney, has filed a Motion for Change of Venue upon the grounds that Defendant believes that a fair and impartial trial cannot be held in Butler County due to extensive pre-trial publicity. In the present case, several pre-trial Motions have been filed seeking to limit the jury's knowledge of any prior convictions of Defendant, specifically a prior conviction for second-degree murder. As the Court is well aware, Defendants' arrest and all pre-indictment hearings had been extensively covered by members of the news media including newspapers, radios, and television reporters with each story containing specific details as to Defendant's prior murder conviction.

The American criminal justice system is firmly grounded upon the principle embedded in our Constitution that every person accused of a crime is entitled to be tried by a fair and impartial jury of his peers, and to be convicted, if at all, on the basis of evidence properly adduced at trial. The United States Supreme Court has recently stated:

(1)

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

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"In essence, the right to a jury trial guarantees to the criminally accused a fair trial by a panel of impartial, indifferent jurors. The failure to accord an accused a fair hearing violates even the minimal standards of due process. A fair trial in a fair tribunal is a basic requirement of due process (In re Murchison, 349 U.S. 133 at 136.)."

In the ultimate analysis, only the jury can strip a man of his freedom or his life. In the language of Lord Coke, a juror must be "indifferent as he stands unsworn." His verdict must be based upon the evidence developed at trial. This is true regardless of the heinousness of the crime charged, the apparent guilt of the offender or the station of life which he occupies. The theory of law is that a juror who has formed an opinion cannot be impartial. (Irvin vs. Dowd, 366 U.S. 717 at 722).

In order that a jury be impartial, it is not necessary that they be totally ignorant of the facts and issues involved in the present case. Rather, the test is whether any potential juror who has been exposed to publicity can set aside his impression and render a verdict based upon the evidence presented in court. (United States vs. Johnson, 584(F) 2d 148). However, an assumption by a trial judge that a jury can disregard pre-trial publicity because they have been instructed to do so is "a triumph of faith over experience" (Forsythe vs. State, 12 Ohio Misc. 99 (1967)). This issue is even more important when the potential sentence of the accused is death. A defendant should never have to stake his life on the hope that jurors can set aside all pre-trial knowledge involved in the pending case.

(2)

HOLBROCK, JOHNSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JOHNSON
BUILDING
313 S. MONUMENT AVENUE
P.O. BOX 587
HAMILTON, OHIO 45012

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The United States Supreme Court has long ago established the principle that pre-trial publicity may result in the denial of the defendant's right to Due Process of Law. In the case of Sheppard vs. Maxwell, 384 U.S. 333 (1966), the Court held that where "there is a reasonable likelihood that prejudicial news prior to trial will prevent a fair trial, the Judge should continue the trial until the threat abates, or transfer it to another county not so permeated with publicity." The Ohio Supreme Court has adopted the standard espoused in Sheppard and ruled that a showing of mere likelihood of prejudice would support a change of venue. (State of Fairbanks, 32 Ohio St. 2d 34 (1972)). Thus, when a defendant is faced with trial in a county that has been subjected to intensive publicity and public comment, there clearly exists a present likelihood of prejudice and such a trial should be transferred to another county. (See also State vs. Phillips, 46 Ohio St. 2d 457 (1976)).

In summary, there is a substantial likelihood of prejudice to Von Clark Davis if the trial proceeds in Butler County. News storys of all types have been appearing through the County consistently and specifically noting Mr. Davis' prior record. Thus, there is present a great risk that most prospective jurors have been repeatedly exposed to this information. In such a situation, Mr. Davis will be denied the kind of impartial jury that the Sixth and Fourteenth Amendments to the United States Constitution guarantee. Therefore, it is

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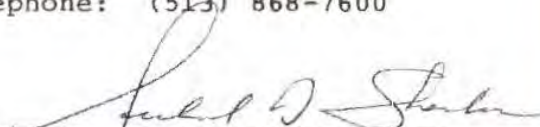
HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 587
HAMILTON, OHIO 45012

IMAGED

respectfully requested that the Court grant the Motion for Change of Venue in the present matter.


Respectfully submitted,

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
Hamilton, Ohio 45011
Telephone: (513) 868-7600

By: 
Michael D. Shanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was forwarded by ordinary U.S. Mail Service to Mr. John Holcomb, Butler County Prosecutor, Butler County Courthouse, Hamilton, Ohio this 25th day of January, 1984.

By: 
Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 887
HAMILTON, OHIO 45012

{ 4 }

Cik 312

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

2-2-1984

Precipe for Subpena—In State Case

THE STATE OF OHIO

vs.

Common Pleas Court
Butler County, Ohio

No. CR83-12-0614

Von Clark Davis

COMMON PLEAS COURT
Butler County, Ohio

Defendant

To the Clerk:—Issued subpena for

EDWARD S. ROBB, JR.
CLERK RESIDENCE

1 Jeanie Houck

c/o Journal News Company
Court Street
Hamilton, Ohio

2

3 DUCES TECUM: Copies of all stories printed in Hamilton Journal
 4 News regarding the shooting of Suzette Butler, arrest of Von
 5 Clark Davis or any court proceeding concerning Von Clark Davis
 6 or any story printed by the Hamilton Journal News concerning Von
 Clark Davis from December 1, 1983 to present date.

7 John Clark

c/o Cincinnati Enquire
110 North Third Street

8

9 DUCES TECUM: Copies of all stories printed in Cincinnati Enquire
 regarding the shooting of Suzette Butler, arrest of Von Clark Davis
 10 or any court proceeding concerning Von Clark Davis or any story printed
 by the Cincinnati Enquire concerning Von Clark Davis from December 1,
 1983 to present date.
 to appear as witnesses in above named case, on Wednesday, February 15, 1984

at 9:00 o'clock A. M. Required on behalf of the Defendant

Michael D. Shanks
 Michael D. Shanks Att'y for the Defendant

421
42
Cik. 312

BARNETT BOOKS, PUBLISHERS, SPRINGFIELD, OHIO

Precipe for Subpena—In State Case

IMAGED

THE STATE OF OHIO

vs.

Plaintiff

Von Clark Davis

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

FEB 1 1984

No. CR83-12-0614

COMMON PLEAS COURT

Butler County, Ohio

Defendant

EDWARD S. ROSS, JR.
CLERK

To the Clerk:— Issued subpena for

RESIDENCE

1 Dick Perry - Cert. mail 11.00

c/o Cincinnati Post

2

800 Broadway

Cincinnati, Ohio

3

4 DUCES TECUM: Copies of all stories printed in Cincinnati Post regarding
 5 the shooting of Suzette Butler, arrest of Von Clark Davis or any court
 6 proceeding concerning Von Clark Davis or any story printed by the
 7 Cincinnati Post concerning Von Clark Davis from December 1, 1983 to
 8 present date.

7

8

9

10

to appear as witnesses in above named case, on Wednesday, 2-15 A. D. 1984,

at 9:00'clock A. M. Required on behalf of the Defendant

Michael D. Shaker

Att'y for the Defendant

210220

HARRETT BOOKS, PUBLISHERS, SPRINGFIELD, OHIO

Ck. 312

Precipe for Subpena—In State Case

THE STATE OF OHIO

vs.

Plaintiff, Common Pleas Court
Butler County, Ohio No. CR83-12-0614

VON CLARK DAVIS

COMMON PLEAS COURT
Butler County, Ohio

Defendant

To the Clerk:— Issued subpena for

1 Karla Stanley - Cert. Mail 11.00

EDWARD S. ROBB, JR. RESIDENCE

c/o CNOB TV

5 and Central Avenue

Cincinnati, Ohio

2
3 DUCES TECUM: Any and all records and documents and writings
4 concerning all stories on Von Clark Davis.

5 Jim Brown

c/o Journal News Company

Court Street

Hamilton, Ohio

7
8 DUCES TECUM: Copies of all stories printed in Hamilton Journal
9 News regarding the shooting of Suzette Butler, arrest of Von
10 Clark Davis or any court proceeding concerning Von Clark Davis
or any story printed by the Hamilton Journal News concerning Von
Clark Davis from December 11, 1983 to present date.

to appear as witnesses in above named case, on Wednesday, Feb. 15 A. D. 1984,

at 9:00 clock A. M. Required on behalf of the Defendant

Michael D. Shanks

Att'y for the Defendant

No.

Crim. Doc. Page

COMMON PLEAS COURT

County, O.

THE STATE OF OHIO

Plaintiff

vs.

Defendant

PRECIPE FOR SUBPENA

For Witnesses

Filed 19

Clerk

P.

Deputy

RECEIVED
CIVIL DIVISION

84 FEB 1 11:46

SHERIFF
BUTLER COUNTY OHIO
ROBERT R. WALTON SR.

BAILEY BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO



2-1-84

IMAGED

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO

FILED IN COMMON PLEAS COURT
BUTLER COUNTY, OHIO
FEB 1 1984

CASE NO. CR83-12-0614

Plaintiff :

-vs-

MOTION FOR DISCOVERY

VON CLARK DAVIS

EDWARD B. ROBB, JR.
CLERK

Defendant :

: : : : : : : : : : : : : : : :

Now comes the Defendant, Von Clark Davis, by and through his attorney, Michael D. Shanks, and states that on January 16, 1984 discovery was requested from the Prosecutor and that said discovery has not been provided. Therefore, Defendant respectfully moves the Court for an order granting discovery under the Ohio Rules of Criminal Procedure. The Defendant respectfully moves for the following information:

1. Notice of the evidence that you intend to use in chief at trial, which evidence is discoverable under Rule 16 /Rule 12 (D) (2) 7;
2. Any statements of the defendant whether written, recorded, or written summaries of oral statements, and copies made thereof /Rule 16 (B) (1) 7;
3. A listing of all documents and tangible objects which are intended to be used as evidence in the trial or which were obtained from or belonged to the Defendant /Rule 16 (B) (1) (c) 7;
4. A list of the names of all witnesses and addresses whom the State intends to call to trial, together with any record of any prior felony convictions of any such witness, together with any record of any criminal convictions of any such witness /Rule 16 (B) (1) (e) 7;
5. All evidence which is favorable to the Defendant and

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 887
HAMILTON OHIO 45012


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material either to guilt or punishment /Rule 16 (B) (1) (f) 7.

HOLBROCK, JONSON, BRESSLER & HOSUER
Attorneys for Defendant
315 South Monument Avenue
P. O. Box 687
Hamilton, Ohio 45012
Telephone: 868-7600


BY


Michael D. Shanks

M E M O R A N D U M

Ohio Rules of Criminal Procedure: Rule 12 (D) (2), Rule 16
(B) (1), (1) (c), (1) (e), and (1) (f).

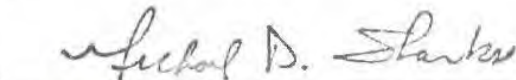
BY


Michael D. Shanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was
forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting
Attorney, Butler County Courthouse, Second Floor, Hamilton, Ohio
this the 31st day of January, 1984.

BY


Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

2-1-84
COURT OF COMMON PLEAS

IMAGED

BUTLER COUNTY, OHIO

STATE OF OHIO

FILED IN Common Pleas Court
BUTLER COUNTY, OHIO

Case Number CR83-12-0614

Plaintiff,

*

vs.

FEB 1 1984

MOTION TO BIFURCATE
TRIAL/MOTION IN LIMINE

VON CLARK DAVIS

EDWARD B. ROSE, JR.
CLERK

*

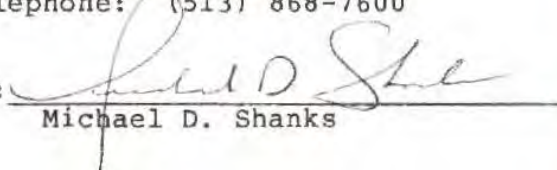
Defendant.

*

8-1-84
Now comes Defendant, Von Clark Davis, by and through his counsel, and moves the Court for an order limiting the prosecution from introducing into evidence at trial for any purpose, any proof or information concerning a prior conviction of Defendant, Von Clark Davis, for second-degree murder as more specifically described in Specification One of Count One of the within indictment and for an order requiring a bifurcated trial, at which time any evidence as may required to prove Specification One of the within indictment be submitted to the jury only after a finding of guilty is returned on the charge of aggravated murder in violation of §2903.01(A).

Respectfully submitted

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
Hamilton, Ohio 45011
Telephone: (513) 868-7600

By: 
Michael D. Shanks

(1)

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK - JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON OHIO 45012

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MEMORANDUM

IMAGED

The present indictment against Defendant, Von Clark Davis, contains specification that "Von Clark Davis was convicted of murder in the second-degree, contrary to §2901.05 of the Ohio Revised Code on April 20, 1971." Defendant respectfully submits that to submit to the trier of fact, the information that Defendant was convicted of a prior murder offense would be highly prejudicial to Defendant and violative of the rights granted him under the Fifth, Sixth, and Fourteenth Amendments of the United States Constitution.

Moreover, the evidence of a prior murder conviction is so prejudicial that anyone in Defendant's position of having such evidence placed in front of the jury is forced to explore the possibility of plea bargaining to a lesser offense in order to avoid a jury trial and the attendant possible death sentence. Such a situation has a chilling effect on the Sixth Amendment right to a jury trial, and further denies Defendant Due Process of Law guaranteed by the Fourteenth Amendment to the United States Constitution.

The State has no compelling reason for the jury to receive the information regarding a prior conviction of Defendant. The specification of prior conviction is not a "true element of an offense", but merely is an additional fact used to enhance the punishment of Defendant if convicted of all the allegations contained in the indictment. The fact that Defendant may or may not have a prior murder conviction is in no way

related to the facts surrounding the death of Suzette Butler, which is the underlying offense in the present matter. When weighed against the extreme prejudice the knowledge of a prior murder conviction would work upon the minds of the jury, no State interest can be said to be compelling enough to require a one-stage trial rather than a bifurcated proceeding. It is noted in McCormick, Evidence, §157 (1954):

"The disfavor for receiving proof of character of a person as evidence that on a particular occasion, he acted in keeping with his disposition is strongly felt when the State seeks to show that the accused is a bad man, and thus, more likely to have committed the crime. The long established rule, accordingly, forbids the prosecution, unless and until the accused gives evidence of his good character, to introduce initially evidence of the bad character of the accused. It is not irrelevant, but in the setting of a jury trial, the danger of prejudice outweighs the probative value.

The danger is at its highest when the character is shown by other criminal acts, and the rule about the proof of other crimes is but an application of the wider prohibition against the initial introduction by the prosecution of evidence of bad character."

It is strongly urged upon this Court that no jury instruction can be read that will even arguably assure that Von Clark Davis will not be convicted, if at all, upon his past record once the jury has evidence of a prior murder conviction. Since it is the paramount focus of any trial within this country and State that a Defendant be tried solely and uniquely upon the facts and circumstances surrounding the instant charge, justice requires in this case that all evidence of any prior murder conviction of Defendant be kept from the jury and submitted only to that jury if indeed they return a verdict of guilty as to the

present underlying offense.

IMAGED

By: 

Michael D. Shanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was forwarded by ordinary U.S. Mail Service to Mr. John Holcomb, Butler County Prosecutor, Butler County Courthouse, Hamilton, Ohio this 31st day of January, 1984.

By: 

Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
115 S. MONUMENT AVENUE
P. O. BOX 587
HAMILTON, OHIO 45012

2-1-84

COURT OF COMMON PLEAS

IMAGED

BUTLER COUNTY, OHIO

STATE OF OHIO

Case Number CR83-12-0614

Plaintiff,

vs.

VON CLARK DAVIS

Defendant.

MOTION TO PROHIBIT DEATH
QUALIFICATION OF THE JURY

EDWARD S. ROSEN, JR.
CLERK

Now comes Defendant, by and through his counsel, and moves the Court in limine to prohibit any questioning of prospective jurors regarding their attitudes toward the death penalty.

Respectfully submitted,

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
Hamilton, Ohio 45011
Telephone: (513) 868-7600

By:

Michael D. Shanks

MEMORANDUM

Any practice during voir dire which results in a jury less than impartial with respect to guilt is unconstitutional as a violation of the Defendant's rights under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution. (Witherspoon vs. Illinois, 391 U.S. 510, 520 (1968)). In

(1)

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 667
HAMILTON, OHIO 45012

IMAGED

addition, the Defendant is denied his right to have his guilt determined by a jury drawn from a fair cross-section of the community when a distinct group is systematically excluded from the panel. (Taylor vs. Louisiana, 419 U.S. 522 (1975)). Removing all prospective jurors who may oppose the death penalty results in a jury more likely to convict and therefore is violative of Defendant's rights.

Ohio's death penalty law provides for a trial bifurcated on the guilt and penalty stages. However, sentencing is irrelevant to the guilt determination. (Gregg vs. Georgia, 428 U.S. 153 (1976)). In fact, the reason the United States Supreme Court imposed the guilty-penalty bifurcation requirement (which the Ohio law has incorporated, see Revised Code §2929.03) was to insulate the jury during the guilt determination phase from irrelevant and prejudicial considerations which arise during the penalty phase. The failure to so separate and insulate the jury results in a violation of the Eighth Amendment's prohibition. Gregg (supra).

What a potential juror thinks or feels about the death penalty is, from the legal point of view, wholly irrelevant to his qualification to sit during the guilt determination phase of the trial. However, there are numerous psychological and sociological studies indicating a close correlation between an individual's moral, ethical or religious attitudes about the death penalty and his impartiality in determining the fundamental issue of guilt or innocence. As noted in the case of State vs. Avery, 261 S.E. 2d 803:

(2)

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The uncontradicted evidence presented by the defendant...demonstrates that persons opposed to capital punishment have for many years constituted a substantial percentage of our population. Moreover, the narrower class of those whose opposition to the death penalty would prevent their consideration, as jurors, of its imposition has also comprised a substantial minority of the population. The evidence further shows that these persons generally exhibit attitudinal characteristics markedly different from those shared by people who favor the death penalty as an instrument of the criminal law. All of the available data suggest that persons who are strongly opposed to capital punishment tend also to be less authoritarian, more liberal in their political attitudes, less punitive in their legal attitudes, and less likely to endorse "discrimination against minority groups, restrictions on civil liberties, and violence for achieving social goals" than persons who favor the death penalty.

State vs. Avery, 2999 N.C. 126 n.4; 261 S.E. 2d 803, 813 n.4 (1980) (Exum, J., dissenting, footnotes omitted)

The fact of the matter is that removing from the jury all death penalty opponents results in a panel which is prosecution prone and thus deprives Defendant of an "impartial" panel. (H. Zeisel, Some Data On Juror Attitudes Toward Capital Punishment (1968); Goldberg, Toward Expansion of Witherspoon: Capital Scruples, Jury Bias, and the Use of Psychological Data To Raise Legal Presumptions, 5 Harv. Civ. Rights--Civ. L. Rev. 53 (1970); Bronson, On the Conviction Proneness and Representatives of the Death-Qualified Jury: An Empirical Study of Colorado Venire-men, 42 U. Colo. L. Rev. 1 (1970); Jurov, New Data on the Effect of the "Death Qualified" Jury on the Guilt Determination Process, 84 Harv. L. Rev. 567 (1971)).

Moreover, a defendant's constitutional right to have his guilt determined by a jury drawn from a fair and representative

IMAGED

cross-section of the community is violated when a distinct group of persons is systematically excluded from the panel. (Taylor supra at 526-527). See also Witherspoon, 391 U.S. at 524 (Douglas, J., dissenting)). The Sixth and Fourteenth Amendment provisions for an impartial jury in a criminal prosecution guarantee the presence of a fair cross-section of the community in the venire from which jurors are eventually selected. (Taylor, 419 U.S. at 530). Persons opposed to the death penalty constitute a distinct and recognizable group in American society. (Witherspoon, 391 U.S. at 520 n.16). The subset of this group who can be excluded from the panel on the basis of Witherspoon also constitute a distinct group. (Spinkellink vs. Wainwright, 578 F. 2d 582, 597 (5th Cir., (1978))). This group of people exist in the population of potential venirement in the community. Death qualifying the panel results in the systematic exclusion of these person from the jury ultimately selected. While such exclusion may or may not be justified during the penalty phase of the trial, their exclusion during voir dire, ipso facto, results in the underrepresentation of the distinct group during the guilt determination phase of the trial. As noted by Justice Stuart in the Witherspoon decision, a jury that is "called of all who harbor doubts about the wisdom of capital punishment - of all who would be reluctant to pronounce the extreme penalty - such a jury can speak only for a distinct and dwindling minority. (391 U.S. at 520).

It has been held in the case of Duren vs. Missouri, 439

IMAGED

S. 357, 364 (1979) that a prima facie violation of the fair cross-section requirement is established when three things are shown:

1. The persons excluded from the jury selection process constitute a distinct group in the community.
2. This group is underrepresented in the relation to the number of persons in the community.
3. The underrepresentation is caused by the systematic exclusion of this group during the jury selection process.

Death qualifications of the jury insures that the second and third parts of the Duren test are satisfied and a prima facie constitutional violation will be present before the Court even instructs the jury in the penalty phase.

This Court should not allow such a Constitutional violation in the present case. Defendant, therefore, respectfully moves this Court order that no questioning concerning the jurors' attitudes about the death penalty shall be permitted during voir dire. In the alternative, Defendant requests that the Court allow Witherspoon excludable jurors to sit on the panel and not be removed for cause, but instead impanel a death qualified alternate to take the juror's place during the penalty phase should such phase become necessary.

By: 

Michael D. Shanks

IMAGED

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was forwarded by ordinary U.S. Mail Service to Mr. John Holcomb, Butler County Prosecutor, Butler County Courthouse, Hamilton, Ohio this 31st day of January, 1984.

By: 

Michael D. Shanks

HOLBROCK, JOHNSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JOHNSON
BUILDING
15 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

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Cik. 312

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Precipe for Subpena—In State Case

IMAGED

2/1 RP

THE STATE OF OHIO

vs.

Plaintiff

VON CLARK DAVIS

(Motions)

Defendant

No. CR83-12-0614

COMMON PLEAS COURT

To the Clerk:—Issued subpena for

RESIDENCE

- 1 Det. Ron Wells c/o Hamilton Police Department
- 2 Det. Don Gross c/o Hamilton Police Department
- 3 Pt1. Shepherd c/o Hamilton Police Department
- 4 Pt1. Petrak c/o Hamilton Police Department
- 5
- 6
- 7
- 8
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- 10

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

FEB 2 1984

EDWARD S. ROBB, JR.
CLERK

to appear as witnesses in above named case, on February 15th, A. D. 1984,
at Nine o'clock A.M. Required on behalf of the Prosecution

John F. Holcomb, Prosecuting Att'y for the State of Ohio

1982 28 129

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 103

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

To the Sheriff of Butler County, Greeting:

IMAGED

WE COMMAND that you give notice to Det. Ron Wells,
Det. Don Gross, Ptl. Shepherd, Ptl. Petrak

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 15th
day of February A. D., 19 84, at 9 o'clock A.M., to give evidence and the truth
to say, between

State of Ohio, and Von Clark Davis
Defendant, on the part of said

Prosecution then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 1st
day of February 19 84.

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By Beth A. Howell Deputy

CC-100-L

THE STATE OF OHIO, BUTLER COUNTY, ss.

Received this Writ on the 1 day of Feb A. D., 1984
 and on the 1 day of Feb A. D., 1984, I served the same by
 handing a true copy thereof with the endorsement thereon to said R. Wells, D. Gross,
Shepherd and Petrak
 and on the _____ day of _____ A. D., 19____, I served by leaving a
 true copy thereof with the endorsement thereon at the usual place of residence of said _____

R. R. Walton, Jr., Sheriff
 By C. Walther, Deputy

421P
 42D

No. CR83 12 0614

State of Ohio

SUBPOENA

vs.

Von Clark Davis

Returnable February 15, 1984.

MILES

Det. Ron Wells

Det. Don Gross

Ptl. Shepherd

Ptl. Petrak

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IMAGED

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John F. Holcomb

Atty.

For Prosecution

Cik. 18-B

BARRETT BROS., PUBLISHERS, SPRINGFIELD, OHIO

Subpena Duces Tecum

IMAGED

CRIMINAL CASE

Revised Code, Sec. 2945.45

The State of Ohio, Butler County, Common Pleas Court

To the Sheriff of said County:

You are hereby commanded to subpoena Jim Brown BLOUNT

c/o Journal News Company

Court St.

Hamilton, OH

to be and appear before the Common Pleas Court at the Court House in said County, on the 15th day of February A. D. 19 84, at 9 o'clock A M., to testify as a witness in a certain case pending in said Court, wherein the State of Ohio prosecutes Von Clark Davis;

and also to bring with you, and produce at the time and place aforesaid.

Copies of all stories printed in Hamilton Journal News regarding the shooting of Suzette Butler, arrest of Von Clark Davis or any court proceeding concerning Von Clark Davis or any story printed by the Hamilton Journal News concerning Von Clark Davis from December 11, 1983 to present date.

; and not depart the Court without leave.

And therein to fail not, under penalty of the law; and to have then and there this writ.

Said Court requires said attendance of said witnesses on behalf of the Defendant

WITNESS my hand and the seal of said Court, this

2nd day of February 1984

Edward S. Robb, Jr.

By

Bob David Clerk

Deputy

2-3-87

STATE OF OHIO

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

CASE NO. CR83-12-0614

Plaintiff

FEB 3 1984

IN THE COURT OF COMMON PLEAS
STATE OF OHIO, BUTLER COUNTY

vs.

VON CLARK DAVIS

EDWARD S. ROBB, JR.
CLERK

IMAGED

Defendant

:

MEMORANDUM IN OPPOSITION
TO MOTION IN LIMINE
RE: DEATH QUALIFICATION OF JURORS

:

Now comes John F. Holcomb, Prosecuting Attorney, and says that the defendant's motion in limine regarding voir dire of jurors on their attitudes about the death penalty is not well taken and should be overruled.

Ohio Revised Code Section 2945.25(C) provides that a person called as a juror may be challenged for cause:

In the trial of a capital offense, that he unequivocally states that under no circumstances will he follow the instructions of a trial judge and consider fairly the imposition of a sentence of death in a particular case. A prospective juror's conscientious or religious opposition to the death penalty in and of itself is not grounds for a challenge for cause. All parties shall be given wide latitude in voir dire questioning in this regard.

See also Criminal Rule 24(B)(9) and (14), which have been held "sufficiently broad" to encompass the juror who may be challenged for cause under Revised Code 2945.25(C). State v. Roberts, 48 Ohio St. 2d 221, 358 NE 2d 350 (1976).

Notwithstanding the Witherspoon case, the Ohio challenge for cause has been upheld as being constitutionally permissible, in Lockett v. Ohio, 438 U.S. 586 (1978), see part II-B of the decision at pages 595-597. This decision clearly outlines and rejects all the objections defendant Davis now makes; the decision points out that there is nothing in the prior cases which suggests that the defendant has a "right to be tried by jurors who have explicitly indicated an inability to follow the law and instructions of the trial judge." 438 U.S. at 596-597.

See also State v. Roberts, id.; State v. Bayless, 48 Ohio St. 2d 73 (1976)(paragraph two, syllabus); and State v. Lockett, 49 Ohio St. 2d 48 (1976) (paragraph one, syllabus).

The Honorable Judge John R. Moser of this court has previously overruled an identical motion, and ruled that "jurors may be properly questioned on the matter of the death penalty in accordance with [the Lockett, Bayless, Roberts, and Spinkellink decisions]." See Journal Entry filed September 16, 1983, in State v. Gerald Ray Johnson, Butler County Common Pleas Court, Case

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

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Page 2

No. CR83-07-0302.

IMAGED

Significantly, the case cited by defendant, Spinkellink v. Wainwright, 578 F. 2d 582 (5th Cir. 1978), also upholds the death qualification of jurors on voir dire, like the Ohio procedure. The case is significant in that the Florida procedure in that case, like Ohio's present statutes, provides for a bifurcated trial with a penalty phase and jury recommendation. Also, the case passed constitutional muster, as Mr. Spinkellink was indeed electrocuted after all his appeals were exhausted.

The so-called "empirical" studies cited by defendant have been widely criticized. The court should note the following comments about these "studies":

Most studies have proceeded from a preconceived notion and spring from the bias on the part of the researcher that jurors not unalterably opposed to capital punishment are "guilt oriented", "prosecution prone". Or as phrased by one researcher, a jury which includes persons unalterably opposed to capital punishment is more neutral because it is more inclined to protect the individual's constitutional rights -- a curious definition of neutrality.

We have not yet seen an unbiased, scientifically founded study to substantiate the claim that persons in a jury which excludes the extremes at both ends, that is, those unalterably opposed to capital punishment and those unalterably committed to it, are somehow biased against defendants. Perhaps one day that scientific data will be found.

In the interim, the premise that the defendant is entitled to jurors biased against the law of the state, or biased against the question of guilt of the defendant in order to avoid that law, is a faulty premise . . . [T]o hold that an individual specifically and irrevocably biased against the interest of one party to the litigation is exempt from exclusion . . . would be to end our concept of the right of both sides in a criminal case to a fair and impartial trial. Surely, the People of California are entitled to more than that.

Huffman, "Witherspoon After Wheeler," Criminal Justice Journal, Vol. 1, pages 101-122 (1979).

Respectfully submitted,

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone (513) 867-5722

By


MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

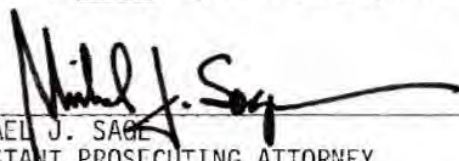
BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

Page 3

PROOF OF SERVICE

IMAGED

This is to certify that a copy of the foregoing Memorandum was mailed by U.S. ordinary mail to Michael D. Shanks, Attorney for Von Clark Davis, 315 South Monument Avenue, Hamilton, Ohio 45011, this 3rd day of February, 1984.


MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

STATE OF OHIO : CASE NO. CR83-12-0614
 Plaintiff : IN THE COURT OF COMMON PLEAS
 STATE OF OHIO, BUTLER COUNTY
 VS. : IMAGED
 VON CLARK DAVIS :
 Defendant :
 FEB 8 1984

FILED In Common Pleas Court
 BUTLER COUNTY, OHIO

STATE'S ANSWER TO DEFENDANT'S
 REQUEST FOR DISCOVERY

EDWARD S. ROBB, JR.
 CLERK

Now comes the Prosecuting Attorney, and to answer the Defendant's Request for Discovery, received on February 3, 1984, discloses the following information:

A. Statements Discoverable, Criminal Rule 16(B)(1)(a):

☒ The Defendant made no statements, oral or written, which are known to the State at the present time.

☐ The Defendant made a written statement, a copy of which is attached hereto.

☐ The Defendant made an oral statement, the substance of which is as follows:

B. Defendant's Prior Criminal Record, Criminal Rule 16(B)(1)(b):

☐ The Defendant has no known criminal record.

☒ The Defendant's known criminal record is attached.

C. Documents and Tangible Objects, Criminal Rule 16(B)(1)(c):

1. 4 bullets
2. 4 bullet cases
3. photographs of defendant's car
4. photographs of 727 Central Avenue, Hamilton, Ohio (attached)
5. photographs of Suzette Butler (attached)
6. business records of K-Mart (attached)
7. gun registration of Mark Lovett (attached)
8. .25 caliber pistol
9. clothing of Suzette Butler
10. driver's license of Mark Lovett (attached)
11. copies of conviction entry in prior cases (attached)
12. City of Hamilton burglary report (attached)

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO
 J. F. HOLCOMB
 PROSECUTING ATTORNEY
 175 SCHLER BLDG.
 OHIO, OHIO 45011
 607-8712

31

Page 2

D. Reports of Examinations or Tests, Criminal Rule 16(B)(1)(d):☐ No tests or experiments were performed in relation to this case.☒ Copies of such reports ~~are attached~~ will be provided upon receipt.E. Witnesses Names and Addresses, Criminal Rule 16(B)(1)(e):

The Prosecuting Attorney intends to call the following at trial:

1. See attached list

2.

3.

4.

5.

6.

7.

8.

9.

10.

☐ None of the above has a known felony record of conviction.☒ Other: Felony record, if any, will be provided at a later date.F. Criminal Rule, 16(B)(1)(f):☒ There is no evidence material to guilt or punishment and favorable to any defendant, known to the Prosecuting Attorney as to this case.☐ Other:

NOTICE: The undersigned represents that the foregoing list of evidence will be considered as notice of the Prosecuting Attorney's intention to use evidence in chief at trial, as requested pursuant to Criminal Rule 12(D)(2).

Upon reasonable notice to the undersigned, inspection and copying of any book, document, recording, photograph or any other tangible object listed above may be accomplished by appointment in the Office of the Prosecuting Attorney.

Any and all requests not reasonably answered by the above are hereby declined as such requests do not come within the purview of Criminal Rules 16 or 12.

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

By

Butler County Courthouse
Hamilton, Ohio 45012
Telephone (513) 867-5722

PROOF OF SERVICE

This is to certify that a copy of the foregoing State's Answer to Defendant's Request for Discovery was sent this 8th day of February, 1984, to counsel for defendant.

JOHN F. HOLCOMB
PROSECUTING ATTORNEY

By

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
SCHLER BLDG.
N. OHIO 45011
57-5722

STATE OF OHIO : CASE NO. CR83-12-0614
 Plaintiff : IN THE COURT OF COMMON PLEAS
 vs. **FILED In Common Pleas Court** STATE OF OHIO, BUTLER COUNTY
BUTLER COUNTY, OHIO
MOTION
 VON CLARK DAVIS
FEB 8 1984 **IMAGED**
 Defendant :
EDWARD S. ROBB, JR.
CLERK

The State of Ohio, by the Butler County Prosecutor, says that defendant by ~~request~~/motion obtained discovery from the State under Criminal Rule 16 (B).

WHEREFORE, the State now moves the Court for an order requiring defendant:

(1) to permit the Prosecuting Attorney to inspect and copy or photograph books, papers, documents, photographs, tangible objects, or copies or portions thereof, available to or within the possession, custody or control of the defendant and which the defendant intends to introduce in evidence at the trial, as provided under Criminal Rule 16 (C)(1)(a),

(2) to permit the Prosecuting Attorney to inspect and copy or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case or copies thereof, available to or within the possession or control of the defendant, and which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial, when such results or reports relate to his testimony, as provided under Criminal Rule 16 (C)(1)(b), and

(3) to furnish the Prosecuting Attorney a list of the names and addresses of the witnesses he intends to call at the trial, as provided in Criminal Rule 16 (C)(1)(c).

Respectfully submitted,


 JOHN F. HOLCOMB
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO

PROOF OF SERVICE

This is to certify that a copy of the foregoing was mailed to Michael D. Shanks, attorney for defendant, this 24 day of February, 1984.


 JOHN F. HOLCOMB
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO
 JOHN F. HOLCOMB
 PROSECUTING ATTORNEY
 310 RENTSCHLER BLDG.
 HAMILTON, OHIO 45011
 867.5712

STATE OF OHIO : CASE NO. CR83-12-0614
 Plaintiff : IN THE COURT OF COMMON PLEAS
 VS. : STATE OF OHIO, BUTLER COUNTY
 VON CLARK DAVIS : RODIE R
 Defendant : FEB 8 1984

EDWARD S. ROBB, JR.
 CLERK

It appearing to the Court that the defendant requested discovery pursuant to Criminal Rule 16 (B) and it further appearing to the Court that the State of Ohio has answered said request for discovery and further that the State of Ohio, by the Butler County Prosecutor, having moved that the defendant be ordered to provide discovery to the State of Ohio under Criminal Rule 16 (C).

IT IS ORDERED that the defendant shall provide discovery to the State of Ohio as requested in the Motion of the State, and that the defendant shall comply with this order in writing, that such discovery shall be made within seven (7) days after defendant obtains discovery or three (3) days before trial, whichever is earlier, and that such discovery shall be furnished to the Prosecuting Attorney of Butler County at 310 Rentschler Building, Hamilton, Ohio, 45011.

ENTER

H. J. Bruwer

JUDGE HENRY J. BRUEWER

OFFICE OF
 PROSECUTING ATTORNEY
 BUTLER COUNTY, OHIO
 JOHN F. HOLCOMB
 PROSECUTING ATTORNEY
 310 RENTSCHLER BLDG.
 HAMILTON, OHIO 45011
 867-5722

J 375 P 250

33

STATE OF OHIO : CASE NO. CR83-12-0614

Plaintiff

STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS

VS

VON CLARK DAVIS

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

BILL OF PARTICULARS

Defendant

FEB 4 1984

EDWARD S. ROBS, JR.

Now comes John F. Holcomb, Prosecuting Attorney and for a Bill of

Particulars, provides the following:

COUNT ONE

On December 12, 1983, Von Clark Davis, purposely, and with prior calculation and design, caused the death of Suzette Butler by shooting her four times in the head with a firearm, outside the American Legion Hall at 727 Central Avenue in the City of Hamilton, Butler County, Ohio, in violation of Ohio Revised Code, Title Aggravated Murder, Section 2903.01(A).

SPECIFICATION 1:

Prior to the said Aggravated Murder committed by the defendant, Von Clark Davis, the defendant was convicted on April 20, 1971 of Murder in the Second Degree, an essential element of which was the purposeful killing of another, to wit: Ernestine Davis, contrary to Section 2901.05 of the Ohio Revised Code in the Court of Common Pleas of Butler County, Ohio in Case No. 21655, as specified in Section 2929.04(A)(5) of the Ohio Revised Code.

SPECIFICATION II:

The defendant, Von Clark Davis, had a firearm on or about his person or under his control while committing the said offense of Aggravated Murder as specified in Section 2929.71 of the Ohio Revised Code.

COUNT TWO

On or about December 12, 1983, the defendant, Von Clark Davis, knowingly had, carried and used a firearm, specifically a .25 caliber pistol, in the shooting death of Suzette Butler in the City of Hamilton, Butler County, Ohio, at which time the defendant, Von Clark Davis, had previously been convicted of felonies of violence, to wit: Shooting with Intent to Wound, contrary to Section 2901.23 of the Ohio Revised Code on April 10, 1970, in Case No. 20938 in the Common Pleas Court of Butler County, Ohio and Murder in the Second Degree, contrary to Section 2901.05 of the Ohio Revised Code on April 20, 1971 in Case No. 21655 in the Common Pleas Court of Butler County

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P O BOX 515
HAMILTON, OHIO 45012

34

IMAGED

Ohio, and the defendant was not relieved from such disability as provided in Section 2923.14 of the Ohio Revised Code, which offense is a felony of the fourth degree, in violation of Section 2923.13(A)(2) of the Ohio Revised Code, Title Having Weapons While Under Disability.

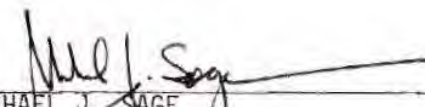

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

AND:


MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone: (513) 867-5722

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Bill of Particulars was mailed by U.S. ordinary mail to Michael D. Shanks, Attorney for Defendant, 315 South Monument Avenue, Hamilton, Ohio, 45011, this 9th day of February, 1984.


MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

IMAGED

E. Witnesses Names and Addresses, Criminal Rule 16(B)(1)(e);

1. Det. Ron Wells, Hamilton Police Department
2. Det. Don Gross, Hamilton Police Department
3. Ptl. Petrak, Hamilton Police Department
4. Ptl. Essex Shepherd, Hamilton Police Department
5. Lt. Reid, Hamilton Police Department
6. Ptl. Ralph Bowman, Hamilton Police Department
7. Det. Jim Nugent, Hamilton Police Department
8. Det. E. Logsdon, Hamilton Police Department
9. Ptl. Gary Thompson, Hamilton Police Department
10. Ptl. R. Shelley, Hamilton Police Department
11. Det. M. Story, Hamilton Police Department
12. Det. Cox, Hamilton Police Department
13. Det. Jerry Weisbrodt, Hamilton Police Department
14. Dr. Richard Burkhardt, Butler County Coroner's Office, Ham., Ohio
15. Tom Marsh, Butler County Coroner's Office, Hamilton, Ohio
16. Mona Aldridge, [REDACTED] Hamilton, Ohio
17. Anthony Ferguson, [REDACTED] Hamilton, Ohio
18. Dr. Joseph Brandabur, c/o Mercy Hospital, 116 Dayton Street,
Hamilton, Ohio
19. Mark Lovette, [REDACTED] Hamilton, Ohio
20. Vickie Moody, [REDACTED] Hamilton, Ohio
21. Larry Cecere, [REDACTED] Fairfield, Ohio
22. Reginald Denmark, [REDACTED] Hamilton, Ohio
23. Cozette Massey, [REDACTED] Hamilton, Ohio
24. Wade Coleman, [REDACTED] Hamilton, Ohio
25. Jo Danna Southern, [REDACTED] Hamilton, Ohio
26. Phyllis Becker, [REDACTED] Hamilton, Ohio
27. Ron Wilson, c/o Butler County Gun, 4830 Dixie Highway,
Fairfield, Ohio

IMAGED

PS Form 3811, July 1982

SENDER: Complete Items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered \$
☒ Show to whom, date, and address of delivery \$

2. ☐ RESTRICTED DELIVERY \$
 (The restricted delivery fee is charged in addition to the return receipt fee.)

CR83 12 0614 Sup. TOTAL \$

3. ARTICLE ADDRESSED TO:
 Karla Stanley
 c/o WCPL TV
 5 & Central Cincinnati, OH

4. TYPE OF SERVICE: ARTICLE NUMBER
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY POSTMARK
(may be on reverse side)
 2-7

6. ADDRESSEE'S ADDRESS (Only if requested)
 CINCINNATI, OHIO 45202

7. UNABLE TO DELIVER BECAUSE: 7a. EMPLOYEE'S INITIALS
 362

RETURN RECEIPT

☆ GPO: 1982-379-593

PS Form 3811, July 1982

SENDER: Complete Items 1, 2, 3, and 4.
Add your address in the "RETURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES)

1. The following service is requested (check one).
☐ Show to whom and date delivered \$
☒ Show to whom, date, and address of delivery \$

2. ☐ RESTRICTED DELIVERY \$
 (The restricted delivery fee is charged in addition to the return receipt fee.)

CR83 12 0614 Sup. TOTAL \$

3. ARTICLE ADDRESSED TO:
 Dick Perry
 c/o Cincinnati Post
 800 Broadway Cin. OH

4. TYPE OF SERVICE: ARTICLE NUMBER
☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY POSTMARK
(may be on reverse side)
 FEB 7 1984

6. ADDRESSEE'S ADDRESS (Only if requested)
 CINCINNATI, OHIO 45202

7. UNABLE TO DELIVER BECAUSE: 7a. EMPLOYEE'S INITIALS
 35

RETURN RECEIPT

☆ GPO: 1982-379-593

IMAGED

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO

*

Case No. CR83-12-0614

Plaintiff,

*

vs.

*

MOTION TO APPOINT COUNSEL

VON CLARK DAVIS

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

Defendant.

*

FEB 14 1984

EDWARD S. ROBS, JR.
CLERK

Now comes Von Clark Davis, by and through his attorney, Michael D. Shanks, and moves the Court for an order appointing counsel for Defendant upon the grounds that Von Davis is indigent as a matter of law and cannot afford to retain counsel and has no means by which to procure counsel to act on his behalf as to all charges in the above-captioned case as further shown by the affidavit attached hereto and incorporated by reference herein.

Respectfully submitted,

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
Hamilton, Ohio 45011
Telephone: (513) 868-7600

By: 

Michael D. Shanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was forwarded by ordinary U.S. Mail Service to Mr. John Holcomb, Butler County Prosecutor, Butler County Courthouse, Hamilton, Ohio this 13th day of February, 1984.

By: 

(1) Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

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IMAGED

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO

Plaintiff,

vs.

VON CLARK DAVIS

Defendant.

* Case No. CR83-12-0614
FILED in Common Pleas Court
BUTLER COUNTY, OHIO

FEB 14 1984

*
EDWARD S. ROSS, JR.
* CLERK

STATE OF OHIO, COUNTY OF BUTLER, SS:

After being first duly sworn and cautioned, Affiant hereby states and affirms that he presently is unemployed, has no source of income whatsoever, has no assets which are available to be sold, nor does he have any financial resources available to him to retain counsel in the above-captioned case and hereby requests that the Court appoint counsel on his behalf.

Further, affiant sayeth naught.

Von Davis
Von Clark Davis

11th Sworn to before me and subscribed in my presence this day of February, 1984.

Michael D. Shanks
Michael D. Shanks, Notary Public

MICHAEL D. SHANKS
Notary Public, State of Ohio
My Commission Expires 2-28-2010

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 667
HAMILTON, OHIO 45012

38

IMAGED

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

FEB 14 1984

EDWARD S. ROBB, JR.
CLERK

THE STATE OF OHIO

vs.

VON CLARK DAVIS

No. CR 83-12-0619

INDICTMENT FOR

AGGRAVATED MURDER

(LIT. SPECS.)

It appearing that the Defendant is in indigent circumstances and unable to employ
counsel, the Court at his request assigns.....MICHAEL D. SHANKS ✓

AND JOHN GARRETTSON.....as counsel to defend him.

Approved:

N. P. Bremer

Judge

PRINTED BY AMERICAN

39 & 40

J 370 P 435

Cik. 18-B

BARRETT BROS.

PUBLISHERS, SPRINGFIELD, OHIO

Subpena Duces Tecum

CRIMINAL CASE

Revised Code, Sec. 2945.45

IMAGED

The State of Ohio, Butler County, Common Pleas Court

To the Sheriff of said County:

You are hereby commanded to subpoena Jeanie Houck*c/o Journal News Company**Court St.**Hamilton, OH**to be and appear before the Common Pleas Court at the Court House in said County, on the* 15th *day of* February *A. D. 19* 84, *at* 9 *o'clock* A *M., to testify as a witness in a certain case pending in said Court, wherein the State of Ohio prosecutes* Von Clark Davis *;**and also to bring with you* , *and produce at the time and place aforesaid.*

Copies of all stories printed in Hamilton Journal News regarding the shooting of Suzette Butler, arrest of Von Clark Davis or any court proceeding concerning Von Clark Davis or any story printed by the Hamilton Journal News concerning Von Clark Davis from December 1, 1983 to present date.

*; and not depart the Court without leave.**And therein to fail not, under penalty of the law; and to have then and there this writ.**Said Court requires said attendance of said witnesses on behalf of the* Defendant*WITNESS my hand and the seal of said Court, this*2nd *day of* February 19 84Edward S. Robb, Jr.*Clerk**By*Beth A. Powell*Deputy*

| Doc. | Page |
|------|------|
|------|------|

Butler

County, O.

U.S.

Von Clark Davis

SUBPENA

For Defendant Witnesses

Returnable February 15/9 84

Michael D. Shanks

Attorney

Ret'd and Filed 19

Clerk

By _____ Deputy

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

RETURN OF SERVICE

I received this writ on the 2 day
of July 1984, at 10:10
o'clock AM, and served the following
persons named therein:

| NAMES OF WITNESSES | Miles | How Served |
|-----------------------------------|-------|------------|
| Jeanie Horuck C/o Journal News | 2 | R |

SHERIFF FEES

| | |
|----------------------------|-----|
| Serv. & Ret. 25c. ea name, | 100 |
| Mileage.....mi. at 8c. | 65 |
| Total | 165 |

By R.R. Walton, Jr. Sheriff
C. Watter Deputy

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 123

Cik 18-B

BAGGOTT I

BS, PUBLISHERS, SPRINGFIELD, OHIO

Subpena Duces Tecum

CRIMINAL CASE
Revised Code, Sec. 2915.45

IMAGED

The State of Ohio, Butler County, Common Pleas Court

To the Sheriff of said County:

You are hereby commanded to subpoena John Clark
c/o Cincinnati Enquire
110 North Third St.

to be and appear before the Common Pleas Court at the Court House in said
County, on the 15th day of February A. D. 19 84, at 9 o'clock A. M.,
to testify as a witness in a certain case pending in said Court, wherein the State
of Ohio prosecutes Von Clark Davis;
and also to bring with you, and produce at the time and place aforesaid.

Copies of all stories printed in Cincinnati Enquire regarding the
shooting of Suzette Butler, arrest of Von Clark Davis or any court
proceeding concerning Von Clark Davis or any story printed
by the Cincinnati Enquire concerning Von Clark Davis from December 1,
1983 to present date.

; and not depart the Court without leave.
And therein to fail not, under penalty of the law; and to have then and there this writ.

Said Court requires said attendance of said witnesses on behalf of the Defendant

WITNESS my hand and the seal of said Court, this

2nd day of February 19 84

Edward S. Robb, Jr.

By

Beth A. Powell

Clerk

Deputy

42D7

~~CV83~~ 12 0614

No.

| Doc. | Page |
|------|------|
|------|------|

IMAGED

Butler County, O.

THE STATE OF OHIO

U.S.

Von Clark Davis

SUBPENA

For Defendant..... Witnesses

Returnable.....Feburary 15, 1984.....

Michael D. Shanks

Attorney

Ret'd and Filed 19

Clerk

By

Deputy,

RETURN OF SERVICE

I received this writ on the 2 day
of Feb 10 84, at 10:10
o'clock A.M., and served the following
persons named therein:

[illegible]

SHERIFF FEES

| | |
|----------------------------|-----|
| Serv. & Ret. 25c. ea name, | 100 |
| Mileage.....mi. at 8c. | 65 |
| Total | 165 |

R.R. Walton, Jr. Sheriff

By C Walther Deputy

2-15-84

IMAGED

STATE OF OHIO

CASE NO. CR83-12-0614

Plaintiff

**FILED in Common Pleas Court
BUTLER COUNTY, OHIO**

STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS

VS

VON CLARK DAVIS

FEB 15 1984:

C E R T I F I C A T E

Defendant

EDWARD S. ROBB, JR.
CLERK

CLERK

It appearing to the Court that Anthony Furgeson, now living in the State of Georgia, a male person, is a witness in a criminal pre-trial hearing before the Butler County Common Pleas Court on February 15, 1984 and Anthony Furgeson having appeared as ordered in said criminal prosecution and his attendance having been for one (1) day on February 15, 1984, Anthony Furgeson having appeared through the Uniform Act to Secure the Attendance of Witnesses pursuant to Section 2939.37 of the Ohio Revised Code,

IT IS, THEREFORE, ORDERED that the Auditor of Butler County, Ohio issue a check in the name of Anthony Furgeson, in the amount of Two Hundred and Ninety Dollars (\$290.00), which total amount includes 1500 miles at ten cents (10¢) per mile for mileage from the State of Georgia to the State of Ohio; Twenty-Five Dollars (\$25.00 for testifying one day and traveling four days and One Hundred Twenty Dollars (\$120.00) for food and lodging for four days, in said cause, which is reasonable cost of transportation for this out-of-state witness, and further that said check shall cover the return trips to the State of Georgia, and further that said witness being and is a necessary witness in this criminal prosecution in the charges filed against said defendant, Von Clark Davis, to wit: Aggravated Murder with Specifications, contrary to Section 2903.01(A) of the Ohio Revised Code and said cost is determined as criminal costs and payable by the Auditor of the State of Ohio under the Criminal Cost Subsidy Program.

IT IS, FURTHER ORDERED that the Auditor of Butler County, Ohio issue forthwith said check.

ENTER

~~BRUEWER, J~~

APPROVED:

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

J 325 P 468

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 126

IMAGED

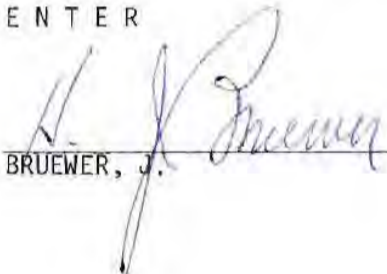
STATE OF OHIO : CASE NO. CR83-12-0614
Plaintiff : STATE OF OHIO
vs : COUNTY OF BUTLER
FILED In Common Pleas Court
BUTLER COUNTY, OHIO
COURT OF COMMON PLEAS
VON CLARK DAVIS : ENTRY ORDERING
Defendant : FEB 24 1984 : SPECIAL VENIRE PURSUANT
TO O.R.C. 2945.18
: : EDWARD G. ROBB, JR. : : : : : : : : :
CLERK

It appearing to the Court that the defendant was Indicted for a capital offense, to wit: Aggravated Murder in violation of Section 2903.01(A) of the Ohio Revised Code, it is therefore

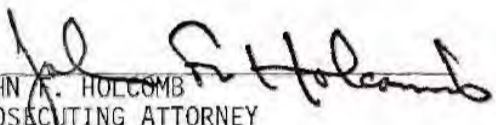
ORDERED, pursuant to Ohio Revised Code Section 2945.18, that the Clerk shall draw a special venire of seventy-five (75) names of persons to be summoned for jury service herein, and that the Clerk shall issue said special venire to the Sheriff of Butler County for service of summons, ordering the venire to appear on the date fixed for trial, to wit: May 9th , 1984, at 9:00 a.m.

IT IS, FURTHER ORDERED that the Sheriff shall serve and return the said venire at least fifteen (15) days prior to the date fixed for trial, and shall serve a copy of said venire and return upon the Prosecuting Attorney and defense counsel, Michael D. Shanks, at least three (3) days before trial.

E N T E R


BRUEWER, J.

APPROVED:


JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY
310 RENTSCHLER BLDG.
HAMILTON, OHIO 45011
867-5722

43

J 375 P 810

CR83-12-0614

CC84-4

In The Court of Common Pleas of Butler County

State of Ohio,
Plaintiff,

v.

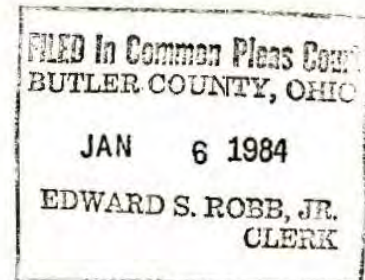
VON CLARK DAVIS

Defendant.

:
:
: Notice to Supreme Court of
: Ohio of Filing of Indictment
: Charging Aggravated Murder
: with Specification(s) of
: Aggravating Circumstances
: (R.C. 2929.021(A))
:

IMAGED

Name of defendant: VON CLARK DAVIS



The court in which the case will be heard:

COURT OF COMMON PLEAS OF BUTLER COUNTY
HENRY J. BRUEWER, JUDGE PRESIDING

Case number(s):

CASE NO. CR83-12-0614

Date on which indictment was filed:

January 6, 1984

EDWARD S. ROBB, JR.

Clerk of Courts of Butler County

Date: January 6, 1984



FILED In Common Pleas Court
BUTLER COUNTY, OHIO

MAR 5 1984

EDWARD S. ROBB, JR.
CLERK

45

Clk. 20-A

May 9th, 1984
BANK OF THE STATE OF OHIO, CINCINNATI, OHIO

VENUE FOR Special Petit JURORS

Revised Code, Sec. 2313.01 to .21

IMAGED

The State of Ohio, Butler County.

Common Pleas Court

To the Sheriff of said County:

We command you that without delay you summon

| No. | NAME | RESIDENCE | When Served | How Served | No. of Miles |
|------|---------------------|-----------------------------|-------------|------------|--------------|
| A 1 | Michael E. Evans | [REDACTED] Fairfield | 3/9 | P | 15 |
| A 2 | Kathy Scott | [REDACTED] Westchester | 3/9 | P | 30 |
| A 3 | Cenia Reeves | [REDACTED] Middletown, Ohio | 3/9 | P | 8 |
| A 4 | Katherine Campbell | [REDACTED] Hamilton | 3/12 | R | 20 |
| A 5 | Patricia Holznacher | [REDACTED] Hamilton | 3/12 | R | 16 |
| A 6 | Mary A. Manson | [REDACTED] Hamilton | 3/9 | R | 15 |
| A 7 | Sandra L. McDonough | [REDACTED] Fairfield | 3/9 | R | 15 |
| A 8 | Linda J Brock | [REDACTED] Hamilton | 3/9 | P | 5 |
| A 9 | John C. Miller | [REDACTED] Hamilton | 3/9 | P | 5 |
| A 10 | Rollan C. Ferguson | [REDACTED] Middletown, Ohio | 3/9 | NF | 2 |
| A 11 | Rita Tannreuthee | [REDACTED] Trenton | 3/9 | R | 8 |
| A 12 | Rita Chamberlain | [REDACTED] Trenton | 3/9 | R | 8 |
| A 13 | Joyce A. Cepulich | [REDACTED] Hamilton | 3/9 | R | 5 |
| A 14 | Virginia F Smith | [REDACTED] Hamilton | 3/9 | P | 5 |
| A 15 | Mary E. Fischesser | [REDACTED] Hamilton | 3/9 | P | 5 |
| A 16 | Karen E. Flaig | [REDACTED] Hamilton | 3/12 | P | 10 |
| A 17 | Kenneth Fey | [REDACTED] Hamilton | 3/12 | R | 18 |
| A 18 | Mary Litherland | [REDACTED] Trenton | 3/9 | R | 8 |
| A 19 | Kathryn Dillhoff | [REDACTED] Oxford | 3/12 | R | 30 |
| A 20 | Clara Mohr | [REDACTED] Hamilton | 3/12 | R | 2 |
| A 21 | Joseph J. Kunka | [REDACTED] Hamilton | 3/12 | R | 6 |
| A 22 | George B Colvin | [REDACTED] Middletown, Ohio | 3/9 | R | 8 |
| A 23 | Susan M. Evans | [REDACTED] Middletown, Ohio | 3/9 | R | 8 |
| A 24 | Carl W. Campbell | [REDACTED] Hamilton | 3/12 | P | 8 |
| A 25 | Linda Colwell | [REDACTED] Trenton | 3/12 | P | 18 |
| A 26 | Phyllis Mays | [REDACTED] Hamilton | 3/9 | P | 15 |
| A 27 | David Stewart | [REDACTED] Oxford | 3/12 | P | 38 |
| A 28 | Florence Hoover | [REDACTED] Oxford | 3/12 | P | 38 |
| A 29 | Tracy Schutte | [REDACTED] Hamilton | 3/12 | R | 20 |
| A 30 | Karen Roberts | [REDACTED] Oxford | 3/12 | NF | 2 |
| A 31 | Janet D Seipel | [REDACTED] Middletown, Ohio | 3/9 | R | 8 |

| No. | NAME | RESIDENCE | When Served | How Served | No. of Miles |
|------|-----------------------|---|-------------|------------|--------------|
| A 32 | Patricia Repyneck | [REDACTED] Middletown, Ohio | 3/9 | P | 8 |
| A 33 | Joseph M Day Jr | [REDACTED] Middletown, | 3/9 | R | 8 |
| A 34 | Elizabeth A Kimberlin | [REDACTED] Middletown | 3/9 | R | 8 |
| A 35 | Harold Turner | [REDACTED] Middletown, | 3/9 | P | 8 |
| A 36 | William D. Day | [REDACTED] Hamilton | 3/12 | R | 12 |
| A 37 | Norma White | [REDACTED] Middletown | 3/11 | R | 30 |
| A 38 | Jonathan Wabrick | [REDACTED] Oxford | 3/11 | R | 22 |
| A 39 | Arlene South | [REDACTED] Middletown | 3/9 | P | 8 |
| A 40 | John A Balaz | [REDACTED] Middletown | 3/9 | R | 8 |
| A 41 | Kay L. Robinson | [REDACTED] Fairfield | 3/9 | P | 15 |
| A 42 | Paula K. Bryant | [REDACTED] Hamilton | 3/11 | R | 4 |
| A 43 | Sherry Schiffrin | [REDACTED] Westchester | 3/9 | P | 30 |
| A 44 | Marie Fox | [REDACTED] Middletown | 3/9 | NF | 2 |
| A 45 | Rodney Linkous | [REDACTED] | 3/11 | R | 20 |
| A 46 | Marilynn Current | [REDACTED] Trenton | 3/9 | R | 8 |
| A 47 | Penny J Barnes | [REDACTED] Fairfield | 3/9 | P | 15 |
| A 48 | Ruie Clarke | [REDACTED] Westchester | 3/9 | R | 30 |
| A 49 | Katherine A Stephens | [REDACTED] Middletown | 3/9 | R | 8 |
| A 50 | Judith Murtaught | [REDACTED] Westchester | 3/9 | P | 30 |
| A 51 | Linda A Kramer | [REDACTED] Hamilton | 3/11 | R | 4 |
| A 52 | Lois J. Snodgrass | [REDACTED] | 3/9 | P | 15 |
| A 53 | Dorothy L Vornheder | [REDACTED] Hamilton | 3/9 | P | 5 |
| A 54 | Nena Back | [REDACTED] Middletown | 3/9 | R | 8 |
| A 55 | Glenn F. Dixon | [REDACTED] Middletown | 3/9 | P | 8 |
| A 56 | Phyllis DeMass | [REDACTED] Oxford | 3/11 | R | 20 |
| A 57 | Ida Peck | [REDACTED] Middletown | 3/9 | NF | 2 |
| A 58 | Scott Clark | [REDACTED] Somerville | 3/11 | R | 24 |
| A 59 | Jeri Williams | [REDACTED] Westchester | 3/9 | NF | 2 |
| A 60 | Betty K. Mahany | [REDACTED] Middletown | 3/9 | P | 8 |
| A 61 | Anthony Mislovich | [REDACTED] Middletown | 3/9 | R | 8 |
| A 62 | Dale R. Suttmiller | [REDACTED] Fairfield | 3/9 | P | 15 |
| A 63 | Gayle A. Weber | [REDACTED] Fairfield | 3/9 | NF | 2 |
| A 64 | Barbara Allen | [REDACTED] Hamilton | 3/12 | R | 4 |
| A 65 | Alice Forbes | [REDACTED] West Chester Rd. Westchester | 3/9 | R | 30 |
| A 66 | Edward T Hagins | [REDACTED] Fairfield | 3/9 | P | 15 |
| A 67 | Wendle Howland | [REDACTED] Monroe | 3/9 | R | 8 |

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|------|--------------------|---|------|-------|----|
| A 68 | Debra Ferry | [REDACTED] Hamilton | 7/11 | 1 | 50 |
| A 69 | Clinton Murphy | [REDACTED] [REDACTED] [REDACTED] ddletown | 3/9 | NF | 2 |
| A 70 | Theresa Hornsby | [REDACTED] Oxford | 3/11 | P | 30 |
| A 71 | Molly F Dallmer | [REDACTED] Hamilton | 3/9 | R | 5 |
| A 72 | Betty M Terhune | [REDACTED] Middletown | 3/9 | P | 8 |
| A 73 | Hugh A. Thompson | [REDACTED] Fairfield | 3/9 | P | 15 |
| A 74 | David L. Ripberger | [REDACTED] Fairfield | 3/9 | MOVED | 2 |
| A 75 | Lizabeth E Lukes | [REDACTED] Fairfield | 3/9 | NF | 2 |
| 76 | | | 3/9 | P | 15 |
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I CERTIFY THE WITHIN TO BE A
TRUE COPY OF THE ORIGINAL FILED
March 20 19 84
EDWARD S. ROBB, JR.
Butler County Clerk of Courts
13 05 Daniel Deputy

RECEIVED
BUTLER COUNTY, OHIO
MAR 20 1984
EDWARD S. ROBB, JR.
CLERK

RECEIVED
CIVIL DIVISION
To be and appear before the Common Pleas Court of said County at the Court
House therein, on Wednesday the 9th day of
May 84 MAR 8 11:30 at 9:00 A.M. o'clock
in the forenoon and so from day to day until discharged, then and there to serve as
Special Petit JURORS

And how you shall execute this writ make appear to our said Court on the 3
day of May 1984 and have you then and there this writ.

WITNESS our signatures this 7 day of March 1984,
to the foregoing Venire, and to our Certificate which we hereby make, that the re-
quirements of the Jury Code have been complied with.

By Edward G. Hobbs Clerk
By Grace Hite Deputy
By S/ Robert R. Walton, Jr. Sheriff
By Ruth Prather Deputy
By [Signature] Judge
By Don Huelbschman Jury Commissioner
By Annalee Smith Jury Commissioner

SHERIFF'S RETURN

I received this venire on the 8 day of March 1984 at
11:20 o'clock A.M., and served the same on the persons therein named, against
whose names the service is indicated.

By R. K. Lichten Sheriff
By [Signature] Deputy

CR83 12 0614
Special
January Term, 1984
COMMON PLEAS COURT
Butler County, O.
VENIRE FOR
Petit (SPECIAL) JURORS
Returnable 19
Returned and Filed 19
Clerk
By State of Ohio Deputy
vs
Von Clark Davis
BARNETT BROTHERS, PALMER, SPENCERFIELD, OHIO

Cik. 20-A

Special May 9, 1934

JURY, PUBLISHED, SPRINGFIELD, OHIO

VENUE FOR

Special Petit

JURORS

Revised Code, Sec. 2313.01 to .21

IMAGED

The State of Ohio, Butler

County.

Common Pleas Court

To the Sheriff of said County:

We command you that without delay you summon

| No. | NAME | RESIDENCE | When Served | How Served | No. of Miles |
|------|---------------------|------------------------------|-------------|------------|--------------|
| B 1 | Louise I. Riddle | ██████████ Hamilton | 3/11 | P | 5 |
| B 2 | Daniel T. Pleiman | ██████████ Fairfield | 3/11 | P | 10 |
| B 3 | Keith Maddock | ██████████ Corner Oh 45003 | 3/10 | P | 40 |
| B 4 | Michael Hollstegge | ██████████ Westchester | 3/11 | R | 30 |
| B 5 | Frances Martin | ██████████ Middletown | 3/9 | R | 8 |
| B 6 | Charles Dennis | ██████████ Middletown | 3/9 | R | 8 |
| B 7 | Richard A Wirmel | ██████████ Hamilton | 3/10 | P | 8 |
| B 8 | Terry L. Roark | ██████████ Hamilton | 3/10 | R | 6 |
| B 9 | Louis Ruffin | ██████████ Oxford | 3/10 | R | 30 |
| B 10 | Veronica Mealey | ██████████ Middletown | 3/9 | P | 8 |
| B 11 | Deborah K Mitchell | ██████████ Middletown | 3/9 | R | 8 |
| B 12 | Alan Cardin | ██████████ Hamilton | 3/11 | R | 10 |
| B 13 | Ruby Baker | ██████████ Oxford | 3/10 | R | 30 |
| B 14 | Holly McQuillan | ██████████ Cin Oh 45241 | 3/11 | P | 30 |
| B 15 | Sophia Fleenor | ██████████ Hamilton | 3/10 | R | 20 |
| B 16 | James P. Bryant | ██████████ Hamilton | 3/10 | NF | 2 |
| B 17 | Barbara Moore | ██████████ Middletown | 3/9 | R | 8 |
| B 18 | Gary L. Gross | ██████████ Middletown | 3/9 | R | 8 |
| B 19 | Estes Isaacs | ██████████ Overpeck Oh 45055 | 3/10 | P | 15 |
| B 20 | Marjorie Powers | ██████████ Middletown | 3/9 | R | 8 |
| B 21 | Gary Hatton | ██████████ Oxford | 3/10 | NF | 2 |
| B 22 | Connie L King | ██████████ Middletown | 3/9 | P | 8 |
| B 23 | Mary P Singhoffer | ██████████ Middletown | 3/9 | P | 8 |
| B 24 | Winnifred Akers | ██████████ Westchester | 3/11 | P | 30 |
| B 25 | Michael A. Grevey | ██████████ Hamilton | 3/10 | P | 10 |
| B 26 | Marilyn Boerio | ██████████ Westchester | 3/11 | P | 30 |
| B 27 | Robert A Hamm | ██████████ Fairfield | 3/11 | P | 30 |
| B 28 | Lucille Smith | ██████████ Fairfield | 3/11 | P | 10 |
| B 29 | Carol Campbell | ██████████ Middletown | 3/11 | R | 14 |
| B 30 | Kenneth Mills Sr | ██████████ Hamilton | 3/11 | R | 4 |
| B 31 | Delbert S. Akers Sr | ██████████ Hamilton | 3/11 | P | 4 |

| No. | NAME | RESIDENCE | When Served | How Served | No. of Miles |
|------|----------------------|------------------------|-------------|------------|--------------|
| B 32 | Robert W. Hawkins | [REDACTED] Hamilton | 3/10 | MOVED NF | 2 |
| B 33 | Wilma J. Richardson | [REDACTED] Hamilton | 3/11 | R | 6 |
| B 34 | Shirley D. Kollstedt | [REDACTED] Hamilton | 3/11 | P | 6 |
| B 35 | Ernestien Johnson | [REDACTED] Hamilton | 3/11 | NF | 2 |
| B 36 | Linda Lairson | [REDACTED] Hamilton | 3/10 | R | 15 |
| B 37 | Emily R. Riechers | [REDACTED] Hamilton | 3/10 | R | 4 |
| B 38 | Martha A. Hudgens | [REDACTED] Hamilton | 3/11 | R | 6 |
| B 39 | Nancy Fuller | [REDACTED] Hamilton | 3/10 | R | 10 |
| B 40 | Brenda Mays | [REDACTED] Hamilton | 3/10 | R | 4 |
| B 41 | Arne T. Seversen | [REDACTED] Hamilton | 3/10 | R | 6 |
| B 42 | Joseph Lewis | [REDACTED] Oxford | 3/10 | NF | 2 |
| B 43 | Raymond M. Mingua | [REDACTED] Hamilton | 3/10 | R | 6 |
| B 44 | Leonard Rockwell | [REDACTED] Middletown | 3/9 | R | 8 |
| B 45 | Joan Langfritz | [REDACTED] Westchester | 3/11 | R | 24 |
| B 46 | Rosa Wolfinbarger | [REDACTED] Hamilton | 3/11 | R | 10 |
| B 47 | Catherine A. Patrick | [REDACTED] Hamilton | 3/10 | R | 4 |
| B 48 | David F. Caldwell | [REDACTED] Middletown | 3/9 | R | 8 |
| B 49 | Dorothy Burckey | [REDACTED] Hamilton | 3/10 | R | 10 |
| B 50 | Marion Forrest Jr | [REDACTED] Middletown | 3/9 | R | 8 |
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RECEIVED
CIVIL DIVISION

To be and appear before the Common Pleas Court of said County at the Court
House therein, on Wednesday the 9th day of
May 1984, at 9:00 A.M. o'clock
in the forenoon and so from day to day until discharged, then and there to serve as
Special Petit JURORS

And how you shall execute this writ make appear to our said Court on the 3
day of may 1984, and have you then and there this writ.

WITNESS our signatures this 7 day of March 1984
to the foregoing Venire, and to our Certificate which we hereby make, that the re-
quirements of the Jury Code have been complied with.

Edward J. Robt Clerk
By Grace White Deputy
S/ Robert R. Walton, Jr. Sheriff
By Ruth Prather Deputy
J. Moser Judge
Doris Huebschman Jury Commissioner
Annabelle Martin Jury Commissioner

SHERIFF'S RETURN

I received this venire on the 8 day of March 1984 at
11:30 o'clock A. M., and served the same on the persons therein named, against
whose names the service is indicated.

R. H. Warden Sheriff
By L. Bonomi, W. Conner Deputy

CR83 12 0612
Special Jan Term, 1984
COMMON PLEAS COURT
Butler County, O.
VENIRE FOR
Special Petit JURORS
unable 19
Returned and Filed 19
Clerk
Deputy

State of Ohio
vs
Clark Davis

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

STATE OF Ohio
-vs-
VON CLARK DAVIS

FILED In General Pleas Court
BUTLER COUNTY, OHIO
MAR 23 1984
EDWARD S. ROBB, JR.
CLERK

CR83-12-0614

Received the Special Venires on the 8th day of March, 1984 at 11:30AM and served the jurors in the manner and on the dates indicated and on the 20th day of March, 1984 the defendant Von Clark Davis was served a certified copy of the special Venires, personally, by Deputy Donald Smith and on the 20th day of March, 1984 a certified copy of the Special Venires was mail by regular mail to the defendant's attorney, Michael Shanks, also on the 20th day of March, 1984 a certified copy was served on the Prosecutor.

Robert R. Walton, Sr., Sheriff
Donald Smith Deputy

ROBERT R. WALTON SR.
BUTLER COUNTY OHIO
SHERIFF

84 FEB 24 P 3:19

RECEIVED
CIVIL DIVISION

4/6

STATE OF OHIO : CASE NO. CR83-12-0614
Plaintiff : STATE OF OHIO
vs (FILED) In Common Pleas Court : COUNTY OF BUTLER
BUTLER COUNTY, OHIO : COURT OF COMMON PLEAS
VON CLARK DAVIS : ENTRY ORDERING
Defendant FEB 24 1984 : SPECIAL VENIRE PURSUANT
TO O.R.C. 2945.18
: EDWARD S. ROBB, JR.
CLERK

It appearing to the Court that the defendant was Indicted for a capital offense, to wit: Aggravated Murder in violation of Section 2903.01(A) of the Ohio Revised Code, it is therefore

ORDERED, pursuant to Ohio Revised Code Section 2945.18, that the Clerk shall draw a special venire of seventy-five (75) names of persons to be summoned for jury service herein, and that the Clerk shall issue said special venire to the Sheriff of Butler County for service of summons, ordering the venire to appear on the date fixed for trial, to wit: May 9th, 1984, at 9:00 a.m.

IT IS, FURTHER ORDERED that the Sheriff shall serve and return the said venire at least fifteen (15) days prior to the date fixed for trial, and shall serve a copy of said venire and return upon the Prosecuting Attorney and defense counsel, Michael D. Shanks, at least three (3) days before trial.

ENTER

BRUEWER, J.

APPROVED:

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

OFFICE OF
EXECUTING ATTORNEY
HILTON COUNTY, OHIO
JOHN F. HOLCOMB
EXECUTING ATTORNEY
BRENTSCHLER BLDG.
HILTON, OHIO 45011
867-5722

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 139

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

IMAGED

To the Sheriff of Butler County, Greeting:

WE COMMAND that you give notice to James Cooney,
William Fister, Shelly Robertson, Wade Coleman

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 9th
day of May A. D., 19 84, at 9 o'clock A.M., to give evidence and the truth
to say, between

State of Ohio, and Von Clark Davis
Defendant, on the part of said

Defendant then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 18th
day of April 19 84.

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *B. H. Russell* Deputy

CC-100-L

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

To the Sheriff of Butler County, Greeting:

WE COMMAND that you give notice to Elbert Avery

Dayton, OH

if.....He.....may be found in your bailwick, severally to be and appear in proper person before the Judge of our Court of Common Pleas, at Hamilton, on the.....9th day of.....May.....A. D., 19...84, at 9 o'clock A.M., to give evidence and the truth to say, between.....

State of Ohio, and Von Clark Davis

Defendant , on the part of said.....

...Defendant.....then and there to be tried, and not depart without leave; therefore, you are nowise to fail under penalty of one hundred dollars and have you then and there this writ.

WITNESS my hand and the seal of said Court at Hamilton, this.....18th day of.....April.....19...84

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By.....B. S. Hamilton.....Deputy

CC-100-L

IMAGED

STATE OF OHIO
Plaintiff
vs
VON CLARK DAVIS
Defendant

FILED in Common Pleas Court
BUTLER COUNTY, OHIO
APR 20 1984
EDWARD S. ROBB, JR.
CLERK

CASE NO. CR83-12-0614
STATE OF OHIO
COUNTY OF BUTLER
COURT OF COMMON PLEAS
SUPPLEMENTAL DISCOVERY

Now comes John F. Holcomb, Prosecuting Attorney, and as Supplemental Discovery, provides as follows:

C. Documents and Tangible Objects, Criminal Rule 16(B)(1)(c):

- 1. Photographs of car (copy attached)
- 2. Purse of Suzette Butler
- 3. box of .25 caliber PCM Bullets
- 4. Police reports dated December 9, 1983 and December 10, 1983

D. Reports of Examinations or Tests, Criminal Rule 16(B)(1)(d):

Coroner's report attached hereto

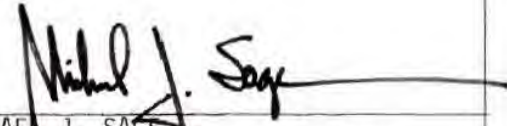
E. Witnesses Names and Addresses, Criminal Rule 16(B)(1)(e):

- 1. Bonita Tipton, [REDACTED] Fairfield, Ohio
- 2. Ron Williams, [REDACTED], Fairfield, Ohio
- 3. Capt. Richard Carpenter, Hamilton Police Department
- 4. Clerk of Courts, Butler County, Ohio
- 5. Ron Dye, B.C.I. Central Lab., London, Ohio
- 6. Tom Nicholson, B.C.I. Central Lab., London, Ohio
- 7. Sgt. James Schmitz, Hamilton Police Department

Witness Anthony Furgeson was convicted in November, 1973 of Breaking and Entering in the Daytime and Larceny.

JOHN F. HOLCOMB
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO

BY


MICHAEL J. SAGE
ASSISTANT PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
Butler County Court House
P.O. Box 515
Hamilton, Ohio 45012
Telephone: (513) 867-5722

OFFICE OF
PROSECUTING ATTORNEY
BUTLER COUNTY, OHIO
JOHN F. HOLCOMB
PROSECUTING ATTORNEY

BUTLER COUNTY
COURTHOUSE
P. O. BOX 515
HAMILTON, OHIO 45012

48

CV 312

CARROLL J. JENKINS, SPENCER, OHIO

Precipe for Subpena—In State Case

IMAGED

THE STATE OF OHIO

vs.

Plaintiff

No. CR83-12-0614

VON CLARK DAVIS

Defendant

COMMON PLEAS COURT

To the Clerk:—Issued subpena for

RESIDENCE

1 James Cooney

Attorney at Law, 723 Dayton Street
Hamilton, Ohio

2 William Fister

Attorney at Law, c/o Dollar Federal
Building, Hamilton, Ohio

3 Elbert Avery

19.00
4.18.84

Dayton, Ohio

4 Shelly Robertson

Hamilton, Ohio

5 Wade Coleman

Hamilton, Ohio

to appear as witnesses in above named case, on Wednesday, May 9 A. D. 1984,
at 9:00 o'clock A. M. Required on behalf of the Defendant

Michael D. Shanker Att'y for the Defendant

FILED in Common Pleas Court
BUTLER COUNTY, OHIO
APR 23 1984
EDWARD S. ROBE, JR.
CLERK

49250

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

IMAGED

To the Sheriff of Butler County, Greeting:

WE COMMAND that you give notice to Wade Coleman, Jo Danna Southern
Phyllis Becker, Ron Wilson, Bonita Tipton, Agent Ron Dye,
Clerk of Courts

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 9th
day of May A. D., 1984 at 9 o'clock A.M., to give evidence and the truth
to say, between

State of Ohio, and Von Clark Davis

Defendant, on the part of said
Prosecution then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 24th
day of April 1984

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *Butler* Deputy

CC-100-L

THE STATE OF OHIO, BUTLER COUNTY, ss.

Received this Writ on the 24th day of April A. D., 1984...
and on the 26th day of April A. D., 1984, I served the same by
handing a true copy thereof with the endorsement thereon to said

Phyllis Becker and Bonita Tipton

and on the 26th day of April A. D., 1984, I served by leaving a
true copy thereof with the endorsement thereon at the usual place of residence of said

Wade Coleman, Jo Danna Southern, Ron Wilson and Clerk of Courts
& Agent Ron Dye

Robert R. Walton, Sr., Sheriff
By Dennis Witham, Deputy

7.00
1.85
\$8.85

421P
42D

No. CR83 12 0614

State of Ohio

vs.

Von Clark Davis

Returnable May 9, 1984.

MILES

Wade Coleman

Jo Danna Southern

Phyllis Becker

Ron Wilson

Bonita Tipton

Agent Ron Dye

Clerk of Courts

\$8.85

John F. Holcomb

Atty.

For Prosecution

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

IMAGED

To the Sheriff of Butler County, Greeting:

WE COMMAND that you give notice to Det. M. Story, Det. Cox
Det. Jerry Weisbrodt, Capt R. Carpenter, Sgt. James Schmitz,
Dr. Richard Burkhardt, Thomas Marsh

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 9th
day of May A. D., 1984 at 9 o'clock A.M., to give evidence and the truth
to say, between

State of Ohio, and Von Clark Davis
Defendant, on the part of said

Prosecution then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 24th
day of April 1984

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *B. S. Howell* Deputy

CC-100-L

$$\begin{array}{r} 7.00 \\ + .65 \\ \hline 7.65 \end{array}$$
[illegible]

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 150

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

To the Sheriff of Butler County, Greeting:

IMAGED

WE COMMAND that you give notice to Det. Ron Wells, Det. Don Gross,
Ptl. Petrak, Ptl. Essex Shepherd, Lt. Reid, Ptl. Ralph Bowman,
Det. Jim Nugent, Det. E. Logsdon, Ptl. Gary Thompson, Ptl. R. Shelly

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 9th
day of May, A. D., 19 84, at 9 o'clock A.M., to give evidence and the truth
to say, between

Von Clark Davis

State of Ohio, and

Defendant, on the part of said

Prosecution then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 24th
day of April, 19 84.

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *B. S. Howell* Deputy

CC-100-L

THE STATE OF OHIO, BUTLER COUNTY, ss.

Received this Writ on the 24th day of April A. D., 1984....
and on the day of A. D., 1984, I served the same by
handing a true copy thereof with the endorsement thereon to said.....

and on the 26th day of April A. D., 1984, I served by leaving a
true copy thereof with the endorsement thereon at the usual place of residence of said.....

Det. Ron Wells, Det. Don Gross, Ptl. Petrak, Ptl. Essex Shepherd,
Lt. Reid, Ptl. Ralph Bowman, Det. E. Logsdon, Ptl. Gary Thompson
Ptl. R. Shelley

9.00
65
\$9.65

Robert R. Walton, Sr., Sheriff
By Dennis Witham, Deputy

421P
42D

| | | |
|--|--|-------------------|
| NOR83-12-0614 State of Ohio vs. Von Clark Davis Returnable May 9, 1984 | | SUBPOENA MILES |
| Det. Ron Wells | | IMAGED \$9.65 |
| Det. Don Gross | | |
| Ptl. Petrak | | |
| Ptl. Essex Shepherd | | |
| Lt. Reid | | |
| Ptl. Ralph Bowman | | |
| Det. Jim Nugent | | |
| Det. E. Logsdon | | |
| Ptl. Gary Thompson | | |
| Ptl. R. Shelley | | |
| John F. Holcomb, Atty. For Prosecution (10) | | |

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

To the Sheriff of Butler County, Greeting:

IMAGED

WE COMMAND that you give notice to Dr. Joseph Brandabur, Mona Aldridge
Mark Lovette, Vickie Moody, Larry Cecere, Reginald Denmark,
Cozette Massey

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 9th
day of May, A. D., 1984, at 9 o'clock A.M., to give evidence and the truth
to say, between

State of Ohio, and Von Clark Davis

Defendant, on the part of said

Prosecution then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 24th
day of April, 1984.

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *B. J. Howell* Deputy

CC-100-L

THE STATE OF OHIO, BUTLER COUNTY, ss.

Received this Writ on the 24th day of April A. D., 19...
and on the 26th day of April A. D., 1984, I served the same by
handing a true copy thereof with the endorsement thereon to said Dr. Joseph Brandabur,
Pathology, and Vickie Moody
and on the 26th day of April A. D., 1984, I served by leaving a
true copy thereof with the endorsement thereon at the usual place of residence of said
Mona Aldridge, Anthony Ferguson, Mark Lovette, Larry Cecere, Reginald
Denmark and Cozette Massey

Robert R. Walton, Sr., Sheriff
By Dennis Witham, Deputy

8.00
1.10
89.10

421P
42D

| | | |
|----------------------|----------|--|
| No. CR83 12 0614 | SUBPOENA | |
| State of Ohio | | |
| vs. | | |
| Von Clark Davis | 84 | |
| May 9, | | |
| Returnable | 19 | |
| MILES | | |
| Dr. Joseph Brandabur | | |
| Mona Aldridge | | |
| Anthony Ferguson | | |
| Mark Lovette | | |
| Vickie Moody | | |
| Larry Cecere | | |
| Reginald Denmark | | |
| Cozette Massey | | |
| 89.10 | | |
| John F. Holcomb | Atty. | |
| Prosecution | | |
| For | | |

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 154

IMAGED

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO : CASE NO. CR83-12-0614

Plaintiff :

-vs-

VON CLARK DAVIS :

Defendant :

DEFENDANT'S RESPONSE TO

PLAINTIFF'S MOTION FOR

DISCOVERY

: : : : **EDWARD G. ROBB, JR.**
CLERK

1. Defendant has no tangible documents which he intends to introduce at trial at the present time;

2. Defendant has no reports of physical or mental examinations or scientific tests or experiments which he intends to introduce at this time.

3. Defendant intends to call the following individuals as witnesses at trial:

- a. James Cooney, [REDACTED], Hamilton, Ohio.
- b. William Fister, c/o Dollar Federal Bldg., Hamilton, Ohio.
- c. Elbert Avery, [REDACTED], Dayton, Ohio.
- c. Shelby Robertson, [REDACTED] [REDACTED], Hamilton, Ohio.
- d. Wade Coleman, [REDACTED], Hamilton, Ohio.

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
P. O. Box 687
Hamilton, Ohio 45012
Telephone: 868-7600

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

BY

Michael D. Shanks
Michael D. Shanks

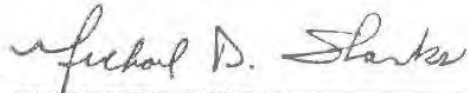
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was

51

IMAGED

forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting
Prosecuting Attorney, Butler County Courthouse, Second Floor,
Hamilton, Ohio this the 25th day of April, 1984.

BY 
Michael D. Shanks

HOLBROCK, JONSON,
BRESSLER & HOUSER
ATTORNEYS AT LAW
HOLBROCK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

Clk. 312

BARRETT

REERS, PUBLISHERS, SPRINGFIELD, OHIO

Precipe for Subpena—In State Case

IMAGED

4/24 RP

THE STATE OF OHIO

vs.

Plaintiff

VON CLARK DAVIS

No. CR83-12-0614

COMMON PLEAS COURT

Defendant

To the Clerk:—Issued subpena for

RESIDENCE

- 1 Det. M. Story c/o Hamilton Police Department
- 2 Det. Cox c/o Hamilton Police Department
- 3 Det. Jerry Weisbrodt c/o Hamilton Police Department
- 4 Capt. R. Carpenter c/o Hamilton Police Department
- 5 Sgt. James Schmitz c/o Hamilton Police Department
- 6 Dr. Richard Burkhardt c/o Butler County Coroner's Office,
141 Court Street, Hamilton, Ohio
- 7 DUCES TECUM: Records pertaining to the death of Suzette Renee Butler, on
8 or about December 12, 1983, Coroner Case No. 83-313
- 9 Thomas Marsh c/o Butler County Coroner's Office
10 141 Court Street, Hamilton, Ohio

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

APR 26 1984

EDWARD S. ROBB, JR.
CLERK

to appear as witnesses in above named case, on May 9th, A. D. 1984,
at Nine o'clock A. M. Required on behalf of the Prosecution
John F. Holcomb, Prosecuting Att'y for the State of Ohio

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 157

No.

Crim. Doc. Page

COMMON PLEAS COURT

..... County, O.

THE STATE OF OHIO

Plaintiff

vs.

Defendant

PRECIPE FOR SUBPENA

For Witnesses

Filed 19

Clerk

Deputy

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO



Clk. 312

BARRETT

TERS, PUBLISHERS, SPRINGFIELD, OHIO

Precipe for Subpena--In State Case

IMAGED

4/24 RP

THE STATE OF OHIO

vs.

Plaintiff

VON CLARK DAVIS

No. CR83-12-0614

COMMON PLEAS COURT

Defendant

To the Clerk:—Issued subpena for

RESIDENCE

1 Dr. Joseph Brandabur, Pathology c/o Mercy Hospital, North, Front & Dayton,
Hamilton, Ohio

2 DUCES TECUM: Records and/or evidence pertaining to the death of Suzette
3 Renee Butler, on or about December 12, 1983.

4 Mona Aldridge FILED In Common Pleas [REDACTED], Hamilton, Ohio

5 Anthony Ferguson BUTLER COUNTY, [REDACTED], Hamilton, Ohio

6 Mark Lovette APR 26 1984 [REDACTED] Hamilton, Ohio

7 Vickie Moody [REDACTED] Hamilton, Ohio

8 Larry Cecere EDWARD S. ROBB, [REDACTED], Fairfield, Ohio

9 Reginald Denmark CL [REDACTED] Hamilton, Ohio

10 Cozette Massey [REDACTED], Hamilton, Ohio

to appear as witnesses in above named case, on May 9th, A. D. 1984,

at Nine o'clock A.M. Required on behalf of the Prosecution

John F. Holcomb, Prosecuting Att'y for the State of Ohio

VON CLARK DAVIS v. WARDEN

CASE NO. 2:16-cv-00495

APPENDIX - Page 159

No.

Crim. Doc. Page

COMMON PLEAS COURT

..... County, O.

THE STATE OF OHIO

Plaintiff

vs.

Defendant

PRECIPE FOR SUBPENA

For Witnesses

Filed 19

Clerk

Deputy

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO



Clk. 312

BARRETT

TERS, PUBLISHERS, SPRINGFIELD, OHIO

Precipe for Subpena—In State Case

IMAGED

4/24 RP

THE STATE OF OHIO

vs.

Plaintiff

VON CLARK DAVIS

No. CR83-12-0614

COMMON PLEAS COURT

Defendant

To the Clerk:—Issued subpena for

RESIDENCE

- 1 Wade Coleman [REDACTED], Hamilton, Ohio
- 2 Jo Danna Southern [REDACTED], Hamilton, Ohio
- 3 Phyllis Becker, [REDACTED] Hamilton, Ohio
- 4 Ron Wilson c/o Butler County Gun, [REDACTED] Fairfield, Ohio
- 5 [REDACTED]
- 6 Bonita Tipton [REDACTED] Fairfield, Ohio
- 7 Agent Ron Dye c/o B.C.I., Central Lab., P.O. Box 365, London, Ohio 43140
- 8 DUCES TECUM: Records pertaining to B.C.I. case No. 84-10053
- 9 Clerk of Courts c/o Butler County Court House, Hamilton, Ohio
- 10 [REDACTED]

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

APR 26 1984

EDWARD S. ROBB, JR.
CLERK

to appear as witnesses in above named case, on May 9th, A. D. 1984,
at Nine o'clock A. M. Required on behalf of the Prosecution
John F. Holcomb, Prosecuting Att'y for the State of Ohio

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 161

No.
Crim. Doc. Page
COMMON PLEAS COURT
.....County, O.

THE STATE OF OHIO
Plaintiff
vs.
.....
.....
Defendant

PRECIPE FOR SUBPENA
For Witnesses
.....
Filed 19

.....
Clerk
.....
Deputy

RECEIVED
CIVIL DIVISION
APR 24 P 1:26
BUTLER COUNTY OHIO
ROBERT H. WALTON SR.
BARNETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Cik. 312

BARRETT PETERS, PUBLISHERS, SPRINGFIELD, OHIO

Precipe for Subpena--In State Case

IMAGED

4/24 RP

THE STATE OF OHIO

vs.

Plaintiff

VON CLARK DAVIS

No. CR83-12-0614

COMMON PLEAS COURT

Defendant

To the Clerk:—Issued subpena for

1 Det. Ron Wells

RESIDENCE
c/o Hamilton Police Department

2 Det. Don Gross

c/o Hamilton Police Department

3 Ptl. Petrak

c/o Hamilton Police Department

4 Ptl. Essex Shepherd

c/o Hamilton Police Department

5 Lt. Reid

c/o Hamilton Police Department

6 Ptl. Ralph Bowman

c/o Hamilton Police Department

7 Det. Jim Nugent

c/o Hamilton Police Department

8 Det. E. Logsdon

c/o Hamilton Police Department

9 Ptl. Gary Thompson

c/o Hamilton Police Department

10 Ptl. R. Shelley

c/o Hamilton Police Department

to appear as witnesses in above named case, on May 9th, A. D. 1984,

at Nine o'clock A. M. Required on behalf of the Prosecution

John F. Holcomb, Prosecuting Att'y for the State of Ohio

32-53

VON CLARK DAVIS v. WARDEN

CASE NO. 2:16-cv-00495

APPENDIX - Page 163

No.

Crim. Doc. Page

COMMON PLEAS COURT

.....County, O.

THE STATE OF OHIO

Plaintiff

vs.

Defendant

PRECIPE FOR SUBPENA

For Witnesses

Filed 19

Clerk

.....

Deputy

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO



THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

To the Sheriff of Butler County, Greeting:

WE COMMAND that you give notice to Wade Coleman, IMAGED
Shelley Robertson

if They may be found in your bailwick, severally to be and appear in proper
person before the Judge of our Court of Common Pleas, at Hamilton, on the 9th
day of May A. D., 19 84., at 9 o'clock A.M., to give evidence and the truth
to say, between

State of Ohio, and Von Clark Davis
Defendant, on the part of said

Prosecution then and there to be tried, and not depart without leave; therefore,
you are nowise to fail under penalty of one hundred dollars and have you then and there
this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 25th
day of April 19 84

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *Butler* Deputy

CC-100-L

By R. H. Watson, Sheriff
D. Watson, Deputy

[illegible]

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 166

CLERK OF COURT
WARD S. POLK, JR.

IMAGED

COURT OF COMMON PLEAS

*61 APR 26 PM 3 00 BUTLER COUNTY, OHIO

STATE OF OHIO

CLERK OF COURT :
EDWARD S. ...
Plaintiff :

CASE NO. CR83-12-0614

-VS-

AMENDED RESPONSE TO PLAINTIFF'S

VON CLARK DAVIS

FOR DISCOVERY

Defendant :

• • • • •

Defendant intends to call an additional witness on behalf of Defendant at trial; James Bryant, [REDACTED], Hamilton, Chic.

FILED in Common Pleas Court
BUTLER COUNTY, OHIO

APR 26 1984

HOLBROCK, JONSON, BRESSLER & HOUSER
Attorneys for Defendant
315 South Monument Avenue
P. O. Box 687
Hamilton, Ohio 45012
Telephone: 868-7600

EDWARD S. ROBB, JR.
CLERK

BY

Michael D. Shanks

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was forwarded by ordinary U. S. Mail to Mr. John Holcomb, Prosecuting Attorney, Butler County Courthouse, Second Floor, Hamilton, Ohio this the 26th day of April, 1984.

BY

Michael D. Shanks

HOLBROOK, JONSON,
BRESSLER & HOLSER
ATTORNEYS AT LAW
HOLBROOK-JONSON
BUILDING
315 S. MONUMENT AVENUE
P. O. BOX 687
HAMILTON, OHIO 45012

54

42/42 Clk. 312

BARRETT THIERS, PUBLISHERS, SPRINGFIELD, OHIO

Precipe for Subpena—In State Case

IMAGED

4/25 RP

Ch 43 2. 2. 7

THE STATE OF OHIO

vs.

Plaintiff

VON CLARK DAVIS

Defendant

No. CR83-12-0614

COMMON PLEAS COURT

To the Clerk:—Issued subpena for

RESIDENCE

1 Wade Coleman, [REDACTED], Hamilton, Ohio

2 Shelley Robertson, [REDACTED], Hamilton, Ohio

3

4

5

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

6

7

APR 27 1984

8

EDWARD S. ROBB, JR.
CLERK

9

10

to appear as witnesses in above named case, on May 9th, A. D. 1984,

at Nine o'clock A. M. Required on behalf of the Prosecution

John F. Holcomb, Prosecuting Att'y for the State of Ohio

52133 56057

VON CLARK DAVIS v. WARDEN
CASE NO. 2:16-cv-00495
APPENDIX - Page 168

No.

Crim. Doc. Page

COMMON PLEAS COURT

..... County, O.

THE STATE OF OHIO

Plaintiff

vs.

Defendant

PRECIPE FOR SUBPENA

For Witnesses

Filed 19

Clerk

Deputy

RECEIVED
CRIMINAL DIVISION
APR 25 11 54 AM
SHERIFF R. WALTON
COURT HOUSE
SPRINGFIELD, OHIO

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

THE STATE OF OHIO, BUTLER COUNTY, ss.

• • •

To the Sheriff of Butler County, Greeting:

WE COMMAND that you give notice to James Bryant

[REDACTED]

Hamilton, OH

IMAGED

if They may be found in your bailwick, severally to be and appear in proper person before the Judge of our Court of Common Pleas, at Hamilton, on the 8th day of May A. D., 1984, at 9 o'clock A.M., to give evidence and the truth to say, between

Von Clark Davis
State of Ohio, and

Defendant, on the part of said

Defendant then and there to be tried, and not depart without leave; therefore, you are nowise to fail under penalty of one hundred dollars and have you then and there this writ.

WITNESS my hand and the seal of said Court at Hamilton, this 27th day of April 1984.

EDWARD S. ROBB, JR.

Clerk of Common Pleas Court

By *B. J. [Signature]* Deputy

CC-100-L

No.

Crim. Doc. Page

COMMON PLEAS COURT

..... County, O.

THE STATE OF OHIO

Plaintiff

vs.

Defendant

PRECIPE FOR SUBPENA

For Witnesses

Filed 19

Clerk

F Deputy

SHERIFF
BUTLER COUNTY OHIO
ROBERT R. WALTON SR.

84 APR 27 A 9: 02

RECEIVED
CIVIL DIVISION

HARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO : CASE NO. CR 83 12 0614
Plaintiff :
vs. :
VON CLARK DAVIS :
Defendant :
ELECTION BY DEFENDANT
PURSUANT TO SECTION 2929.022
OF THE OHIO REVISED CODE
APR 27 1984
EDWARD S. ROBB, JR.
CLERK

Now comes the defendant, by and through counsel, and elects, pursuant to Section 2929.022 of the Ohio Revised Code, to have the question of the existence of the aggravating circumstance set forth in Specification No. 1 of the Indictment in this matter determined and tried by the Trial Judge as opposed to the Trial Jury.

Defendant further requests his Motion in Limine to preclude the prosecution from introducing any evidence or making any comment concerning the defendant's prior conviction referred to in Specification No. 1 at the trial of this matter.

Defendant further moves the Court to sever the counts of the Indictment as previously requested herein.

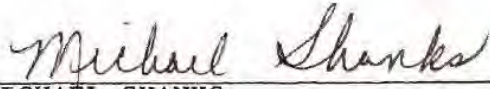
Michael Shanks
MICHAEL SHANKS
315 S. Monument Avenue, P. O. Box 687
Hamilton, Ohio 45012
Telephone: (513) 868-7600

John A. Garretson
JOHN A. GARRETSON
A Legal Professional Association
Attorneys for Defendant
118 S. Second Street, P. O. Box 60
Hamilton, Ohio 45012
Telephone: (513) 868-2074

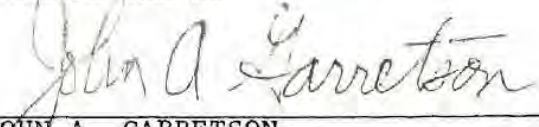
MEMORANDUM

Ohio Revised Code, Section 2929.022.

IMAGED



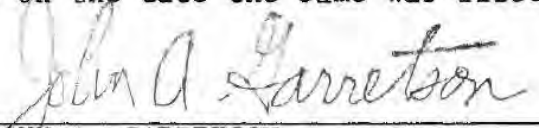
MICHAEL SHANKS



JOHN A. GARRETSON
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was hand-delivered to John F. Holcomb, Prosecuting Attorney, Butler County Court House, Hamilton, Ohio 45011, on the date the same was filed.



JOHN A. GARRETSON
Attorney for Defendant

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

IMAGED

STATE OF OHIO : CASE NO. CR 83 12 0614

Plaintiff :

vs.

VON CLARK DAVIS

Defendant

MOTION TO HAVE REASONS FOR
DEFENSE OBJECTIONS AND REASONS
FOR OVERRULING DEFENSE OBJECTIONS
PLACED ON RECORD

EDWARD S. ROBB, JR. : : : :
CLERK

Now comes defendant, by and through counsel, to move this
court to order that the reasons for defense objections and the
reasons for overruling them be placed on the record. A memorandum
in support of this motion follows:

99-0252

FILED

MAR 05 1999

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

Michael Shanks

MICHAEL SHANKS

315 S. Monument Avenue, P. O. Box 687
Hamilton, Ohio 45012

Telephone: (513) 868-7600

John A. Garretson

JOHN A. GARRETSON

A Legal Professional Association
Attorneys for Defendant

118 S. Second Street, P. O. Box 60
Hamilton, Ohio 45012

Telephone: (513) 868-2074

MEMORANDUM IN SUPPORT

Adequate, effective representation of an accused in a
capital case must include a complete compilation of a record of
every step and every event at the trial level. Defense counsel
cannot wait until the death sentence is imposed before he shifts

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his thinking to the appellate process. The framework for an appeal must be built at trial. To preserve issues, defense counsel must make a complete record reflecting such issues in the trial court. The Appellate Courts of this state will not review issues other than "plain error" which could have been but were not properly presented at trial. State v. Williams (1977), 51 Ohio St. 2d 112; Crim. R. 52. IMAGED

An adequate record for appeal mandates that all aspects of all proceedings (motions, voir dire, opening and closing statements, reasons for objections and reasons for overruling them, including bench conferences or in-chamber discussions) be recorded by the court reporter. In the absence of a record of a motion, objection and reasons for it, the Court of Appeals will not review any claimed error based thereupon. A full, adequate record cannot be reconstructed in its entirety after trial. Memories fade and are inadequate substitutes for a complete, accurate record made at trial.

To fully preserve an issue for appellate review, counsel must raise the issue and state the grounds and arguments on which it is propounded. The immediate case contemplates the death penalty. There is, of course, no post-conviction relief after implementation of sentence; thus, all issues must be exactly and vigorously preserved in the trial record.

Therefore, defendant respectfully requests this honorable court to grant the foregoing Motion to Have Reasons for Defense

Objections and Reasons for Overruling Defense Objections Placed
on Record.

IMAGED

Michael Shanks
MICHAEL SHANKS

John A. Garretson
JOHN A. GARRETSON
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was hand-
delivered to John F. Holcomb, Prosecuting Attorney, Butler County
Court House, Hamilton, Ohio 45011, on the date the same was filed.

John A. Garretson
JOHN A. GARRETSON
Attorney for Defendant

IMAGED

COURT OF COMMON PLEAS

BUTLER COUNTY, OHIO

STATE OF OHIO

: CASE NO. CR 83 12 0614

Plaintiff :

vs.

VON CLARK DAVIS

*Filed in Common Pleas Court
BUTLER COUNTY, OHIO*

MOTION FOR NOTICE OF
PROSPECTIVE THREE-JUDGE PANEL

Defendant :

EDWARD S. ROBB, JR.

: : *CLERK* : :

Defendant hereby moves for an Order that defendant be notified by the Court forthwith as to the names of the three Common Pleas Judges who would be appointed to hear the case at bar in the event that defendant does elect to have this case tried before a three-Judge panel.

Michael Shanks

MICHAEL SHANKS

315 S. Monument Avenue, P. O. Box 687
Hamilton, Ohio 45012
Telephone: (513) 868-7600

John A. Garretson

JOHN A. GARRETSON

A Legal Professional Association
Attorneys for Defendant
118 S. Second Street, P. O. Box 60
Hamilton, Ohio 45012
Telephone: (513) 868-2074

MEMORANDUM


The basis of this Motion is that, in order to provide defendant with effective assistance of counsel in this case, as provided by the Sixth and Fourteenth Amendments to the United States Constitution,

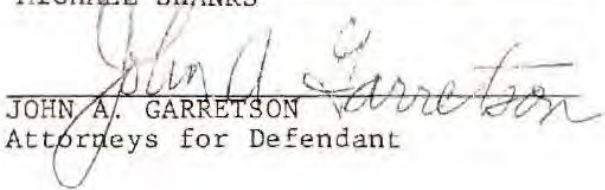
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IMAGED

and equivalent Ohio Constitutional provisions, defendant must be notified of the names of the three Judges who would be selected to determine the issues in this case, in the event that defendant does choose to waive his right to trial by jury in this case. Defendant cannot make a valid, fully informed decision as to whether or not he should waive his right to trial by jury in this case unless he can be notified in advance of the names of the three Judges that would serve in the event that defendant does waive his right to jury trial.

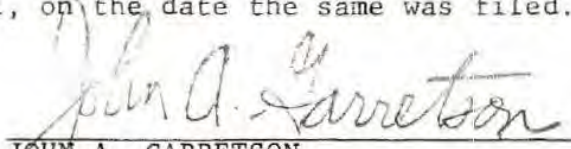
Defendant further moves that he be allowed to conduct a voir dire hearing of the three Judges who would be selected, in the event that defendant does waive his right to a jury trial in this case.


MICHAEL SHANKS


JOHN A. GARRETSON
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was hand-delivered to John F. Holcomb, Prosecuting Attorney, Butler County Court House, Hamilton, Ohio 45011, on the date the same was filed.


JOHN A. GARRETSON
Attorney for Defendant

IMAGED

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO : CASE NO. CR 83 12 0614
Plaintiff :
vs. **FILED In Common Pleas Court** MOTION FOR RULING ON NUMBER
BUTLER COUNTY, OHIO OF PEREMPTORY CHALLENGES
VON CLARK DAVIS :
Defendant **APR 17 1984**

EDWARD S. ROBB, JR. :
CLERK

Now comes the defendant, by and through counsel, and moves this Court to allow him, individually, twenty-four (24) peremptory challenges to prospective jurors.

As grounds for this motion, defendant states the following:

1. This is a capital case. It is of utmost importance that a fair and impartial jury be selected to decide the issues in a trial where defendant's life is at stake.

2. Under previous Ohio statutory law, when a capital jury was required to deliver both guilt and penalty determinations at the same time, defense counsel was entitled to exercise up to twenty-three peremptory challenges. Ohio Revised Statutes, Chapter 88 §IX (Swan, 1841) (twenty-three peremptory challenges); Ohio Revised Statutes, Chapter 81 §IX (Swan and Critchfield, 1860) (twenty-three peremptory challenges); Ohio Revised Statutes §7272 (Daugherty, Brasee, and Okey, 1880) (twenty-three peremptory challenges; Ohio Revised Statutes §7272 (Giague, 1890) (sixteen peremptory challenges); Ohio General Code §13647 (1910) (sixteen peremptory challenges); Ohio General Code §13647 (Throckmorton, 1926) (sixteen peremptory challenges). An increase in the number of peremptory challenges for the defense is necessary

IMAGED

to preserve defendant's rights under the due process clause of the Fourteenth Amendment. This motion must be considered with a view that this is a case asking for a death penalty. The United States Supreme Court recognized that "death is a different kind of punishment than any other which may be imposed in this country." Gardner v. Florida, 430 U. S. 349 (1977). It is clear that a higher standard of due process is required in death cases than other cases because of the severity and finality of the punishment which may be involved. See Winick, Prosecutorial Peremptory Challenge Practices in Capital Cases: An Empirical Study and a Constitutional Analysis, 81 Mich. L. Rev. 1, 19-20 (1982) ("... the use of peremptory challenges in capital cases should be subjected to closer scrutiny than in non capital cases.").

The Court has also recognized that in death cases, "the sentencing process, as well as the trial itself, must satisfy the requirements of the Due Process clause," 430 U. S. at 358. More importantly, the Supreme Court has recognized that standards of procedural fairness evolve with our society. "[T]his Court has acknowledged its obligation to re-examine capital sentencing procedures against evolving standards of procedural fairness in a civilized society." *Id.*, at 357. The Court should examine this motion to increase the number of peremptory challenges for the defense in light of three factors: (a) Death cases require a higher standard of due process than any other case, (b) This unique standard also applies to the sentencing phase of the trial, and (c) This standard is constantly evolving to higher levels as our society evolves. For these reasons courts should have no hesitation about setting new standards of procedural fairness in

IMAGED

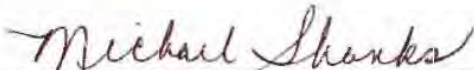
death cases.

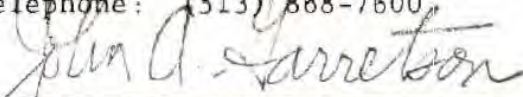
The strides made by other jurisdictions which have applied these evolving standards of procedural fairness to the role of the defense peremptory challenge in a capital case are instructive. In State of New York v. Gilbert H. King, Justice of the Supreme Court, 324 N. E. 2d 351 (N. Y. 1975), the highest court of New York found that a trial judge in a volatile case did not abuse his discretion by granting ten additional peremptory challenges to the defendant. In Commonwealth of Massachusetts v. Saxe, # 41775, 6, 7, Memorandum Opinion of Judge Walter McLaughlin (Sup. Ct. of Suffolk County 1976), the trial court doubled the number of defense peremptory challenges, overruling a statutory requirement that the number of challenges be equal for both parties. The judge acknowledged that extra challenges were necessary to combat prejudice in the community produced by pretrial publicity. In Mississippi, Rule 5.06 of the Uniform Circuit Court Rules grants each side 12 peremptory challenges in a capital case. The court, however, has the discretion to increase the number in order to avoid an injustice. Additionally, the defense is entitled to more challenges than the prosecution in the federal courts and in twenty states, including Alabama, Alaska, Arkansas, Delaware, Georgia, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Oregon, South Carolina, Tennessee, and West Virginia. J. Van Dyke, Jury Selection Procedures, 282-3 (Bellinger 1977). Thus, a request that this Court grant additional challenges is

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not a novel procedure, but is merely a request to employ a practice already recognized in many courts as necessary to protect a defendant's right to a fair trial.

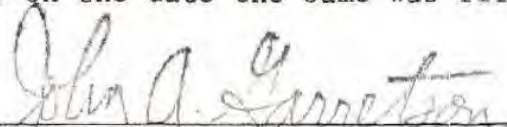
WHEREFORE, defendant requests this Honorable Court to grant the defense twenty-four peremptory challenges.


MICHAEL SHANKS
315 S. Monument Avenue, P. O. Box 687
Hamilton, Ohio 45012
Telephone: (513) 868-7600


JOHN A. GARRETSON
A Legal Professional Association
Attorneys for Defendant
118 S. Second Street, P. O. Box 60
Hamilton, Ohio 45012
Telephone: (513) 868-2074

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was hand-delivered to John F. Holcomb, Prosecuting Attorney, Butler County Court House, Hamilton, Ohio 45011, on the date the same was filed.


JOHN A. GARRETSON
Attorney for Defendant

IMAGED

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO

: CASE NO. CR 83 12 0614

Plaintiff

:

vs.

VON CLARK DAVIS

FILED In Common Pleas Court
BUTLER COUNTY, OHIO

MOTION TO RECORD ALL PROCEEDINGS

Defendant

APR 27 1984

EDWARD S. ROBE, JR.

Now comes the defendant, by and through counsel, who respectfully move this Court to record all pretrial, trial, sentencing, and post-trial proceedings. Said proceedings include, but are not limited to, conferences in chambers, bench conferences during trial, all motion hearings, testimony of witnesses, voir dire, opening, closing and jury questions. Said request is being made pursuant to the Fifth, Sixth and Fourteenth Amendments of the United States Constitution, Article I, Sections 10 and 16 of the Ohio Constitution, Sections 2929.05, 2953.02, 2953.03, 2953.04 of the Revised Code of Ohio and Crim. R. 44. A complete transcript of all proceedings is necessary to preserve defendant's rights to due process, equal protection and effective assistance of counsel on review.

Michael Shanks

MICHAEL SHANKS

315 S. Monument Avenue, P. O. Box 687
Hamilton, Ohio 45012
Telephone: (513) 868-7600

John A. Garretson

JOHN A. GARRETSON

A Legal Professional Association
Attorneys for Defendant
118 S. Second Street, P. O. Box 60
Hamilton, Ohio 45012
Telephone: (513) 868-2074

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MEMORANDUM IN SUPPORT

The accused is indicted under Ohio's death penalty statutes. These statutes provide extensive appellate review as of right to the Court of Appeals and the Ohio Supreme Court. In order to fully represent the defendant on appeal, all proceedings and arguments held during the course of the litigation must be on the record so counsel will be able to effectively represent the defendant on appeal.

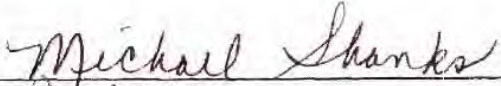

The legislature recognized the uniqueness of a case where the death penalty may be imposed when it provided for extraordinary appellate review of such cases. Section 2929.05 of the Revised Code of Ohio provides in part:

(A) Whenever sentence of death is imposed pursuant to sections 2929.03 and 2929.04 of the Revised Code, the court of appeals and the supreme court shall upon appeal review the sentence of death at the same time that they review the other issues in the case. The court of appeals and the supreme court shall review the judgment in the case and the sentence of death imposed . . . in the same manner that they review other cases, except that they shall review and independently weigh all of the facts and other evidence disclosed in the record in the case and consider the offense and the offender to determine whether the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors in the case, and whether death is appropriate. . .

To ensure that all matters are properly before the appellate and supreme courts, a record of all proceedings must be made. The defendant would then be provided with effective assistance of counsel on appellate review pursuant to the Sixth and Fourteenth Amendments and insure his day in court pursuant to Article I, Section 16 of the Ohio Constitution. Without such a record, the defendant may be unable to remedy any injury done to his person on appellate review.

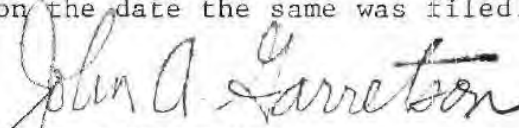
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For the above stated reasons, the defendant respectfully moves this court to record all proceedings in the above-captioned case.


MICHAEL SHANKS

JOHN A. GARRETSON
Attorneys for Defendant

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I hereby certify that a copy of the foregoing was hand-delivered to John F. Holcomb, Prosecuting Attorney, Butler County Court House, Hamilton, Ohio 45011, on the date the same was filed.


JOHN A. GARRETSON
Attorney for Defendant

IMAGED

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

STATE OF OHIO : CASE NO. CR 83 12 0614
Plaintiff :
vs. : MOTION FOR PRETRIAL HEARINGS
VON CLARK DAVIS : **FILED In Common Pleas Court**
 : **BUTLER COUNTY, OHIO**
Defendant **APR 27 1984**

EDWARD S. ROBB, JR.

Now comes the defendant, by ~~and~~ through counsel, and requests the pretrial motions filed in his behalf be set for hearing prior to the date of trial. In support of his motion, the defendant shows the following facts.

1. This case has been tentatively set for trial on May 9, 1984.
2. The defendant has filed extensive pretrial motions.
3. Proper and thorough presentation and consideration of these motions is essential to the defense of this case which contains complex factual and legal issues.
4. The defendant believes that his motions will receive fuller consideration if the Court hears them without the pressure of a waiting jury on the date set for trial.
5. The defendant believes further that potential jurors would be prejudiced against him if there is a delay on the date of trial for the purpose of hearing motions or if the press reports such hearings while the potential jurors are awaiting to be called.

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The resolution of this case could carry the most severe consequences for the defendant and he should be allowed the most advantageous circumstances for the development of his defense.

WHEREFORE, defendant prays that this Court specially set a date prior to trial for the purpose of receiving evidence and legal argument on his motions.

Michael Shanks

MICHAEL SHANKS
315 S. Monument Avenue, P. O. Box 687
Hamilton, Ohio 45012
Telephone: (513) 868-7600

John A. Garretson

JOHN A. GARRETSON
A Legal Professional Association
Attorneys for Defendant
118 S. Second Street, P. O. Box 60
Hamilton, Ohio 45012
Telephone: (513) 868-2074

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John A. Garretson

JOHN A. GARRETSON
Attorney for Defendant